THE VIRGINIA COMMITTEE SYSTEM AND THE AMERICAN REVOLUTION

BY

JAMES MILLER LEAKE

A DISSERTATION

Submitted to the Board of University Studies of The Johns Hopkins University in Conformity with the Requirements for the Degree of Doctor of Philosophy

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BALTIMORE

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INTRODUCTION

This study of the Virginia committee system in its relationship to the American Revolution has been made in the main from source material, much of which has been utilized by writers who have studied these committees as isolated units rather than as parts of a well developed system. The author believes that an institutional and historical continuity runs through the committee system of the Virginia legislature, and that these committees are connected in a vital and intimate way with the so-called revolutionary committees of the transition period from colony to commonwealth. To show the continuity, to explain the organization of the committees of the Virginia House of Burgesses, and to show their part in the calling of the first Continental Congress is the purpose of this study. It was at first intended to include the results of an investigation of the so-called revolutionary committees (the Virginia Committee of Safety and the local committees); but any adequate treatment of these organizations would have carried this study far beyond the usual limits of a dissertation. I have followed out the activities of these committees and hope soon to publish my findings as a continuation of this study.

The opening chapters are devoted to the organization of the Virginia House of Burgesses and its method of carrying on the legislative work by means of standing committees. Special attention has been given to the committee of correspondence, 1759–1770, which was chosen for the purpose of communicating with the colonial agent, and the relationship existing between this committee and the House of Burgesses, as well as the law governing its appointment and functions, has been carefully examined. It is this committee, I believe, which developed into the committee for intercolonial correspondence; and in order to understand

clearly the relationship of the legislative committees to the people at large, the representative system and the election laws of the colony have been brought into the discussion.

A comparison of the committee of correspondence of 1759, chosen for the purpose of communicating with the agent in England, with the committee of correspondence of 1773, chosen for intercolonial communication and for correspondence with an agent in England, brings out important results. By close examination of the organization, personnel, and activities of these committees I have reached conclusions somewhat different from those long held regarding their operation. The continuity of personnel in these committees seems to me to be especially significant, and is a feature which, so far as I have been able to determine, has never before been pointed out.

I wish to acknowledge my indebtedness to several friends whose assistance has proved invaluable at various stages of the work. To them whatever of good there may be in the study is largely due, while in no way are they responsible for any inaccuracies it may contain. To Professor James Curtis Ballagh, formerly of the Johns Hopkins University, now of the University of Pennsylvania, and to Professors John Martin Vincent and John Holladay Latané of the Johns Hopkins University I am especially indebted. The study was undertaken at the suggestion of Professor Ballagh. Not only am I indebted to him for a dissertation subject, but without his scholarly suggestions and careful criticisms in its early stages the work would not have been possible. To Professor Vincent I wish to express my gratitude for careful training in research methods and for valuable assistance at various stages of the work. To Professor Latané, under whose direction and in whose seminary the study was completed, I am under many obligations. It is no less a pleasure because it is also a duty to thank him for cheerful assistance, scholarly direction, and helpful criticism, which have proved well-nigh invaluable.

In the collection of material I have been aided and my

labors have been greatly lightened by the courtesy and kindness of the staffs of the various libraries in which I have worked. To Mr. Gaillard Hunt and Mr. J. C. Fitzpatrick of the Library of Congress, to Mr. W. G. Stanard of the Virginia Historical Society, to Dr. H. R. McIlwaine, Dr. H. J. Eckenrode, and Mr. Earl G. Swem of the Virginia State Library I am very grateful for courtesies extended to me during my work in their respective libraries.

J. M. L.

THE VIRGINIA COMMITTEE SYSTEM AND THE AMERICAN REVOLUTION

CHAPTER I

Committees of the House of Burgesses

That the Virginia House of Burgesses, the first legislative assembly to meet in America, should have transacted business along lines of procedure similar to, if not identical with, those followed in the British House of Commons before the development of the cabinet or ministerial form of government, is not at all strange. Virginia was first settled almost entirely by British people, and it is only natural that they should have brought with them to America a deep love for the mother-country and for her institutions. When Governor Yeardley, in June, 1619, summoned the Assembly to its first meeting, he called together a body of men who had no legislative precedents to follow save those derived from English parliamentary procedure. In its governmental institutions the infant colony was largely influenced by English experience, throughout its various branches of government English institutions served as models, and it was upon an English basis that the structure of colonial government was built. However, these English institutions were soon modified to meet colonial needs, and gradually there grew up in the Virginia House of Burgesses a committee system of legislative procedure that has entered into the very warp and woof of our governmental fabric. A system of English legislative committees, transplanted from the mother-country during a long period, took on new forms and added importance in legislating for the colony, and it has become the very groundwork of the

American legislative system. In England the committee system gradually narrowed down and lost in importance with the rise of the ministerial or cabinet form of government; in America the same system took on new functions and increased in importance, developing into a congressional or committee form of government.

As Virginia was the first colony in America to establish a representative legislature, so she was the first to develop a system of standing legislative committees for the transaction of business.[1] It is in the development of this system that the government of the United States has found its most distinctive legislative peculiarity—a peculiarity that has given to our congressional system a characteristic individuality. So important is an understanding of these committees to a proper conception of the American Revolution and the later establishment of the United States that their rise and development in the Virginia House of Burgesses should be examined with care.

The first meeting of the House of Burgesses was held at Jamestown, then called James City, July 30, 1619, and a record of the proceedings has come down to us in a "reporte" from the speaker, John Pory.[2] This document,

[1] J. F. Jameson, "The Origin of the Standing-Committee System in American Legislative Bodies," in Political Science Quarterly, vol. ix, pp. 262–263.

[2] This paper is in the British State Paper Office, America and West Indies, Virginia, and is endorsed "Mr. Pory owt of Virginia, The Proceedings of the First Assembly of Virginia, July, 1619." This interesting document was discovered by Mr. George Bancroft and published in 1857 in the Collection of the New York Historical Society, second series, vol. iii, pp. 329–358, with an introduction by Mr. Bancroft. Of its discovery he says: "Having, during a long period of years, instituted a very thorough research among the papers relating to America in the British State Paper Office, partly in person and partly with the assistance of able and intelligent men employed in that Department, I have at last been so fortunate as to obtain the 'Proceedings of the First Assembly of Virginia.' The document is in the form of 'a reporte' from the Speaker; and is more full and circumstantial than any subsequent journal of early legislation in the Ancient Dominion.

"Many things are noticeable. The Governor and Council sat with the Burgesses, and took part in motions and in debates. The Secretary of the Colony was chosen Speaker, and I am not sure that he was a Burgess. This first American Assembly set the precedent

shows that twenty-two members composed the first Assembly, that John Pory, the secretary of the colony, was chosen speaker, and that John Twine was made clerk. Among other business recorded in the proceedings as having been transacted was the reading by the speaker of the commission for establishing the Council of State and the Assembly. The charter which Yeardley had brought out from England was read and referred to several committees for examination, in order that if they found anything therein "not perfectly squaring with the state of the colony, or any law pressing or binding too hard," the Assembly might petition for its redress, especially since they looked upon this great charter as destined "to bind us and our heirs forever." After due inquiry had been made the burgesses from Martin's patent were excluded, and the Assembly humbly demanded of the Virginia Company an interpretation of that clause in Martin's patent allowing him to enjoy his lands as amply as any lord of a manor in England. "The least the Assembly can alledge against this clause," said the Burgesses, "is, that it is obscure, and that it is a thing impossible for us here to know the prerogatives of all the manours of Englande." They prayed that the charter clause guaranteeing equal liberties and immunities to grantees might not be disregarded, and that the Board "would be pleased to

of beginning legislation with prayer. It is evident that Virginia was then as thoroughly a Church of England colony, as Connecticut afterwards was a Calvinistic one. The inauguration of legislative power in the Ancient Dominion preceded the existence of negro slavery which we will believe it is destined also to survive. The earliest Assembly in the oldest of the original thirteen States, at its first session, took measures 'toward the erecting of' a 'University and Colledge.' Care was also taken for the education of Indian children. Extravagance in dress was not prohibited; but the ministers were to profit by a tax on excess in apparel. On the whole, the record of these Proceedings will justify the opinion of Sir Edward Sandys, that 'they were very well and judiciously carried.' The different functions of government may have been confounded, and the laws were not framed according to any speculative theory; but a perpetual interest attaches to the first elective body representing the people of Virginia, more than a year before the Mayflower, with the Pilgrims, left the harbor of Southampton, and while Virginia was still the only British Colony on the whole continent of America."

remove any such hindrance" as might "diverte out of the true course, the free & publique current of justice."[3]

Certain of the instructions sent out from England were "drawn into laws" regulating intercourse and trade with the Indians. To pay speaker, clerk, sergeant, and provost-martial for their respective services a pound of the best tobacco was levied from every male in the colony above sixteen years of age. No counties having been laid off at this time, representatives were elected from the several towns, plantations, and hundreds, styled boroughs; hence the assembly was known as the House of Burgesses and the members as burgesses. Even after the division of the colonies into counties these names endured, and up to the formation of the state government in 1776 they remained in common use.[4]

The plan of appointing committees, more or less permanent, to transact with greater facility the business of a legislative body is not an unnatural device, and one is not surprised to find this first Virginia Assembly submitting the charter to committees. From special committees to do certain specific things, after which the committees were discharged, to permanent standing committees, with wider but equally definite functions, was a process of evolution accomplished in the period between 1619 and 1693. In the House of Burgesses for the session of December, 1655, we find a committee for revising the laws, consisting of a chairman and three members, and a committee for private causes composed of a chairman and seven members.[5] In the session of March, 1658, the committee for revising the laws presented their work to the Assembly, by whom their revisal was adopted on March 31 of that year.[6] Again in

[3] Collections of the New York Historical Society, second series, vol. iii, pp. 334–358; C. Campbell, History of the Colony and Ancient Dominion of Virginia, pp. 138–142.

[4] Collections of the New York Historical Society, second series, vol. iii, pp. 334–358.

[5] W. W. Hening, The Statutes at Large, vol. i, pp. 421, 422.

[6] Ibid. Hening quotes from the Randolph MS., p. 238, as follows: "This day all the former acts haveing been perused by the committee for viewing and regulateing them were by the said coMmittee

the session of March, 1659, there were named committees for private causes and "for review and regulation of the Acts, and to make Report of the inconveniences or requisite alterations."[7] From this date down at least as far as 1680, when the method of appealing to the king in council began to be used, are found committees for private causes.[8]

In 1660 the Assembly appointed a "committee of audit," whose duty it was to check up the accounts of the "collectors of two shillings per hhd." This committee was empowered to examine witnesses, administer oaths, and use all other legal means to determine the accuracy of such accounts.[9] In 1661, 1662, and 1663 there were "publique committees" appointed to sit for the transaction of business with the governor and the Council during the recess of the House.[10] In 1661 the Assembly named Colonel Francis Morrison and Henry Randolph, the clerk of the House of Burgesses, as a recess committee for a revisal of the laws; and in 1699 there was a joint recess committee, consisting of three members of the Council and six burgesses, appointed for the same purpose. Six of this committee was a quorum, but it was specified that there should be not less than two from the Council nor four from the House of Burgesses present to constitute such a quorum.[11]

In 1663, just after the system of standing committees in the English House of Commons assumed its final form, the Virginia House of Burgesses had a committee of elections, with functions closely resembling those of the English com-

presented to the house, where being read and seriously discussed they were approved of in the House and a coMmittee appointed to present them to the Governour and Councill, and to advise with him and his councill about the explanation or alteration of any seeming difficulties or inconveniencyes, Yet with this lymitation not to assent to anything of consequence without the approbation of the House."

[7] Hening, vol. i, p. 512.

[8] Jameson, The Origin of the Standing-Committee System, pp. 262–263.

[9] Hening, vol. i, pp. 545, 546.

[10] Jameson, The Origin of the Standing-Committee System, pp. 262, 263; Hening, vol. ii, pp. 31, 32, 147, 199.

[11] Hening, vol. ii, pp. 34, 311, 312, 313, 314.

mittee of privileges and returns;[12] and from a clerk's petition of the year 1677 we find that there was in the same body a committee of propositions and grievances, whose clerk drew a salary of fifty pounds sterling. The same committee appears again in 1684. A committee of public claims is mentioned in 1677 and again in 1679, 1691, and 1697.[13] In the single early manuscript journal that has been preserved, that of the session of 1693, there appears the committee of public claims, along with the committee of elections and privileges and the committee of propositions and grievances. These three are noted from 1696 to 1698 as constituting the usual system.[14]

During the session of 1702–1703 the journal of the House of Burgesses records the appointment of three standing committees; namely, public claims, elections and privileges, and propositions and grievances.[15] On March 29, 1703, Messrs. Bland, Marable, Ashton, and Turberville, members of the House of Burgesses, were named by that body a committee to inspect and examine the treasurer's accounts.[16] On March 22 it was ordered that each of the standing committees "has power to adjourn themselves *de die in diem* and to send for persons records Journalls and other papers" which they might have occasion to use. Some idea of the importance of these committees may be gathered from the fact that the clerk of the House was ordered to post a notice of their place of meeting.[17]

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[12] Jameson, The Origin of the Standing-Committee System, pp. 262, 263.

[13] Hening, vol. ii, pp. 405, 421, 455; vol. iii, pp. 43, 44; Jameson, The Origin of the Standing-Committee System, pp. 262, 263.

[14] Jameson, The Origin of the Standing-Committee System, pp. 262, 263; Journals of the House of Burgesses of Virginia, 1695–1702, pp. 4, 6, 45, 47, 58, 61, 120, 123, 133, 142, 182, 208, 212, 248, 341.

[15] Journals of the House of Burgesses, 1702/3–1712, pp. 6, 9.

[16] Ibid., p. 14.

[17] Ibid., pp. 9, 10. "*Ordered* That the Clerk of ye House publish ye latest time set by ye House for receiving propositions Grievances & publick Claims during this Session by Setting up a fair Copy of ye Resolve of ye House in that behalfe at ye Colledge door *Ordered* That ye the Clerk of ye House publish the place where ye Comittee of Grievances & Propositions, and the Comittee of publick Claims are to sitt, *vizt* in ye upper Rooms of ye Colledge where they for-

A perusal of the journal for the first session of the Assembly of 1702/3–1705 shows that the three standing committees of this time—for public claims, consisting of ten members; for propositions and grievances, made up of ten members; and for elections and privileges, with five members—were already performing much of the routine work of the House of Burgesses. So important was their work that to each was assigned a clerk, whose duty it was to keep a record of its proceedings. Their findings were reported to the whole house, which considered and voted upon the reports. The frequency with which the committee of the whole accepted their reports seems to argue well both for the effectiveness of their work and for the faith of the Burgesses in their committees. Indeed, the cases in which their resolutions were rejected or even amended by the House seem to be the exceptions to the rule of reliance on their good judgment.

During the general Assembly of 1702/3–1705, with its four sessions, that of 1705–1706, which had only one session, and that of 1710–1712, of two sessions, the work of the committees seems to have undergone little change. In all of these sessions, except the one-day session of April 20, 1704, the shortest ever held by the House of Burgesses, the standing committees of elections and privileges, propositions and grievances, and public claims were regularly appointed.[18] As regards the number who served on these committees there seems to have been no material variation. During these sessions the membership of the committee of elections and privileges was never smaller than four nor larger than five; the membership of the other two varied between ten and twelve. Each of these committees had a chairman and a clerk, and their work seems to have been of great importance.

merly sat', by Setting up a Certificate therof at ye Colledge door." On account of a fire which had destroyed the state house at Jamestown, October 31, 1698, this session of the Assembly was held in the College Hall of William and Mary at Williamsburg.

[18] Journals of the House of Burgesses, 1702/3–1712, pp. 6, 9, 45, 46, 88, 89, 132, 241, 242, 303, 304.

Not all of the work of the House of Burgesses, however, was done by these committees. We have already noted the important recess committees for revising the laws, and one cannot fail to be impressed by the vast amount of work accomplished by the revisal committee of 1699 as evidenced in the thirty-nine bills reported by it to the General Assembly, by which they had to be passed before they could take the form of acts.[19] While not one of the regular system of standing committees, this revisal committee was both a standing committee and a recess committee. The work of the revisal committee appointed in April, 1699, included only the laws passed up to the time of its appointment. The laws passed between that date and the session of 1705–1706 were, however, provided for by order of the House of Burgesses which referred them first to the committee of public claims and then to the committee of propositions and grievances; and they were revised by these committees just as the older laws had been by the committee of revisal.[20]

At the beginning of each General Assembly, as soon as the speaker had been chosen, a committee was usually appointed to notify the governor, and to find out when it would be his pleasure for the House to present their newly chosen head.[21] This committee seems to have been a purely temporary one appointed to perform a single specific function, the performance of which discharged it from further duty. Another committee which appeared with great regularity in most of the sessions is the one for receiving, inspecting, and examining the treasurer's accounts—a committee whose work was somewhat important if we can judge from the regularity of its appointment and the nature of the subject with which it had to deal.[22] During all the sessions of the General Assembly from 1702 to 1712, whenever a conference was desired by either the Council or the House of Burgesses, the House appointed a committee to

[19] Hening, vol. iii, pp. 181, 182, 183, 184, 185.
[20] Journals of the House of Burgesses, 1702/3–1712, pp. 189, xxix.
[21] Ibid., pp. 3, 129, 239.
[22] Ibid., pp. 14, 55, 110, 137, 255.

meet with the council committee, in case the conference was decided upon.[23] These committee-men from the House were termed "Managers" of the conference for the House, while the committee-men of the Council were known as "Managers" for the Council. However, the House of Burgesses could refuse to confer with the Council if in their judgment they thought it was the intention of that body to make the Burgesses yield in any matter that would establish a bad precedent. Especially as regards money measures were differences likely to arise; and here, as in England, the Lower House claimed the right to originate all money bills, guarding this right jealously whenever it was called into question.[24]

In the session of October, 1705, a committee was appointed "to Enquire into The practice and Behaviour of the Attorney-Generall." This committee, which seems to have been very closely akin to the investigating committee of modern legislative bodies, was composed of six members, with the power of adjourning from day to day and of sending for such persons and such records, journals, and other papers as they should, from time to time, have occasion to use in their investigation.[25] The result of their findings was to be reported to the committee of the whole house.

In matters that were deemed of sufficient importance the House of Burgesses often resolved itself into a committee of the whole. In such a matter the procedure was as follows: The speaker of the House left his chair and his place was taken by the chairman of the committee of the whole house. After a discussion of the question in this committee, the speaker resumed the chair and the chairman of the committee made his report of the proceedings of the committee of the whole. As an illustration of this procedure the following example will doubtless suffice. On October 29, 1705, the committee for revision of the laws reported a bill which it had prepared entitled "An Act for Establishing

[23] Journals of the House of Burgesses, 1702/3–1712, pp. 24, 91, 113, 139, 169, 170, 185, 200.
[24] Ibid., pp. 338, 339.
[25] Ibid., p. 140.

the General Court and for Regulating and Setling the Proceedings Therein." This bill was read, and after its first reading was referred to a committee of the whole house, a day being then set for its consideration. After several postponements the bill was considered in the committee of the whole house on November 15, the chairman, Mr. Peter Beverly, reporting from the committee that it had made some progress in the said bill, and had directed him to move that it have leave to sit again. This leave was granted, and on November 17 the House again resolved itself into a committee of the whole, from which the bill with several amendments was reported to the House of Burgesses, who agreed to the changes and passed the bill to its second reading.[26] Throughout its entire existence the committee of the whole house played an important part in the deliberations of the Virginia House of Burgesses.

As has been already seen, the first House of Burgesses, that of 1619, was composed of twenty-two members. The records of the General Assembly of October, 1629, show that forty-six burgesses were present at that session, the Eastern Shore representatives not appearing.[27] The roster of the House of Burgesses for the session of March, 1643, shows that the ten Virginia counties were represented by twenty-seven burgesses;[28] in the session of November, 1654, sixteen counties sent up thirty-eight representatives;[29] in March, 1660, seventeen counties furnished forty-four burgesses.[30]

During the period of 1619 to 1662 there seems to have been no regulation of the number of burgesses returnable from each county, some counties sending only one representative while others sent two, three, four, five, or even as many as six. In the General Assembly of March, 1662, an act was passed for regulating the number of bur-

[26] Journals of the House of Burgesses, 1702/3–1712, pp. 138, 141, 151, 163, 155, 157.
[27] Hening, vol. i, pp. 138, 139.
[28] Ibid., p. 239.
[29] Ibid., pp. 386, 387.
[30] Ibid., pp. 527, 528, 529, 530.

gesses.[31] The preamble of this act states that it was passed because the "charge of assemblyes" was "much augmented by the greate numbere of burgesses unnecessaryly chosen by the several parishes." In order to correct this difficulty it was enacted that no county should send more than two burgesses, who should be elected at the county seat of each county, but it was provided that James City (Jamestown) should be allowed the privilege of electing a member to represent it in the House of Burgesses. The last clause of the act provided that every county which should lay out a settlement of one hundred acres and people it with one hundred tithable persons should have the right to elect one representative to the Assembly. That this law was not at once complied with is indicated by the fact that the counties of Charles City, James City, and Isle of Wight each sent three representatives to the General Assembly of December, 1662, while Isle of Wight elected three burgesses to the Assembly of October, 1666.[32] Hening suggests that the additional number of burgesses appearing in the representation of the above mentioned counties during these sessions was probably due to "the equity not the words of the before mentioned act of March, 1661–2."[33] The last clause of the act in question seems to conflict with its first provision.

The Assembly of October, 1669, however, passed an act which provided for the election of two burgesses to represent each county, and each county was enjoined "to returne two burgesses for the better service of the publique."[34] It

[31] Hening, vol. ii, p. 106.

[32] Ibid., vol. ii, pp. 196, 197, 249, 250.

[33] Ibid., p. 196.

[34] Ibid., vol. ii, pp. 272, 273. The text of the act is as follows: "*Whereas* severall inconveniencies have arisen by the act giveing liberty to the counties to chose one or two burgesses at discretion as the retarding the business at the house when those single burgesses are upon committees, or of any suite of their owne, or difference between diverse parishes of the counties, or have their appearance hindred by sickness or otherwise, in all which occasions the county that sends, or parte of it are deprived of their representative, *It is enacted* that each county after this present session shalbe enjoyned to returne two burgesses for the better service of the publique."

is interesting to note that as early as 1669 committee duties are urged as a reason for the presence of a full representation of every county in the House of Burgesses. That the problem of securing a full and regular representation of each county in the House of Burgesses was still a live issue in the session of the General Assembly of October, 1670, is evidenced by the passage of the following act: "*Whereas* the act for electing two burgesses for each county for want of a ffine hath not had the due observance it ought, *It is enacted* that every county not sending to every session of assembly two burgesses shall be fined ten thousand pounds of tobacco to the use of the publique."[35] By an act of March, 1662, all freemen failing to vote in the election of burgesses from their county were fined two hundred pounds of tobacco.[36] This provision was repeated in all of the acts for regulating the election of burgesses passed while Virginia was a British colony.[37]

By the beginning of the eighteenth century the counties had begun to send up two burgesses with fair regularity, and in the General Assemblies of 1702/3–1705, 1705–1706, and 1710–1712 the roster of the House of Burgesses shows twenty-five counties sending up fifty burgesses, while in the last mentioned Assemblies Jamestown was represented by one burgess. No change appears in the number of burgesses until the Assembly of 1715, when the College of William and Mary was allowed a representative, the roster for that year showing twenty-five counties with two burgesses apiece, and Jamestown and William and Mary College with one each. The number of burgesses remained at that figure until the General Assembly of 1720–1722, when the representatives of the newly created counties of King George and New Kent raised the number from fifty-two to fifty-six.[38] The General Assembly of 1727–1734 appears to have been

[35] Hening, vol. ii, p. 282.
[36] Ibid., p. 82.
[37] Ibid., vol. iii, p. 238; vol. vii, pp. 517–530, clause ix.
[38] Journals of the House of Burgesses, 1702/3–1712. Lists of Burgesses in Introduction; ibid., pp. vii–xi; ibid., 1712–1722, pp. vii–xiii.

composed of sixty-five burgesses, of whom sixty-two represented thirty-one counties and three the corporations of Jamestown, Williamsburg, and William and Mary College; that of 1734–1740 seems to have been attended by seventy-one burgesses, representing thirty-four counties and four corporations, Henrico County appearing to have sent only one representative.[39]

By the fourth decade of the eighteenth century the counties had usually sent up to the House of Burgesses the number of representatives required by the law, and by the middle of the century two burgesses for each county were returned with great regularity. The General Assembly of 1742–1747 was attended by seventy-six burgesses from thirty-eight counties and four corporations, Albemarle, Brunswick, Fairfax, and Warwick counties sending only one delegate each; and the House of Burgesses in 1748–1749 was composed of eighty-four members returned by forty counties and four corporations,[40] each county having elected two representatives and the towns of Norfolk, Jamestown, and Williamsburg and the college of William and Mary one each.

By this time the colony was growing rapidly, new counties were being created in the "up country," and with this growth of counties not only had the number of burgesses increased, but the regularity of their return to the Assembly was greater. Both the General Assembly of 1752–1755 and that of 1756–1758 witnessed a Lower House with a return of one hundred and four burgesses from fifty counties and four corporations,[41] while the House of Burgesses of 1758–1761 was made up of one hundred and six delegates from fifty-one counties and the four corporations.[42]

The General Assembly of 1761–1765, made memorable by the passage of the Stamp Act Resolutions introduced by Patrick Henry, shows fifty-four counties and four corporations represented by one hundred and ten burgesses.[43] Nor-

[39] Journals of the House of Burgesses, 1727–1740, pp. vii–x.
[40] Ibid., 1742–1749, pp. vii–x.
[41] Ibid., 1752–1758, pp. vii–x.
[42] Ibid., 1758–1761, pp. vii–x.
[43] Ibid., 1761–1765, pp. 3, 4.

folk County did not return any representatives on account of a freshet, which washed away the bridges and prevented the freeholders from assembling at the county-seat on the day named for the election.[44] Sixteen new counties, most of them western, had been created in the period between 1747 and 1765, and it was largely from the frontier and "up-country" members that Henry drew his support in the hard-won battle for the famous resolutions of 1765. From the day of Henry's victory new progressive forces began gradually to gain control of the House of Burgesses.

One hundred and sixteen burgesses from fifty-six counties, the towns of Williamsburg, Jamestown, and Norfolk, and from the College were returned members of the General Assembly of 1766–1769;[45] one hundred and twenty members from the same towns and corporations and from fifty-eight counties appear on the roster of the lower legislative branch of that of 1770–1772;[46] and one hundred and twenty-six burgesses were returned from the sixty-one counties and four corporations that went to make up the colony of Virginia when her last colonial house of representatives was chosen for the General Assembly of 1773–1776.[47]

The General Assembly of 1712–1714 held three sessions, at each of which the three regular standing committees of elections and privileges, public claims, and propositions were appointed. There does not appear to have been any material difference in the size of these committees and those appointed in the earlier Assemblies.[48] Each was provided with a clerk, and their functions seem to have been about the same as those exercised in the earlier stages of their existence.

In the last session of this Assembly a committee was appointed "to inspect the laws expired and near expiring." This committee was a temporary one appointed to perform duties which were sometimes performed by one of the stand-

[44] Journals of the House of Burgesses, 1761–1765, p. 18.
[45] Ibid., 1766–1769, pp. 3, 4.
[46] Ibid., 1770–1772, pp. 3, 4.
[47] Ibid., 1773–1776, pp. 3, 4.
[48] Ibid., 1712–1726, pp. 4, 5, 46, 78.

ing committees, and which were after the establishment of another standing committee—that for courts of justice—gradually to be assumed by it.[49] During this same session a committee of four members was appointed by the House of Burgesses whose duty it was to apportion the public levy, a duty comparable to that devolving upon the finance committee of modern legislative bodies.[50]

The session of 1715, which had lasted a little over one month when it was dissolved by Governor Spottswood, passed only three acts, none of them of very great importance; its time was largely taken up by a dispute between the House of Burgesses on the one side and the governor and the Council on the other. In this dispute feeling ran high on either side, and the executive indulged in some rather intemperate and ill-timed language toward those members of the House whom he deemed recalcitrant. This abuse, especially evident in his speech at the closing of the Assembly, seems to have been largely unmerited, for examination of the disputed questions will convince the unbiased student that the Burgesses were acting wholly within their rights as representatives of the people. As regards the duties and responsibilities of representatives toward their constituents, the Burgesses who opposed Governor Spottswood at this time seem to have held a higher and more advanced conception of representation than did either the chief executive or his council; and the main criticism directed against the offending representatives seems to have been the fact that they considered their duties to their constituents of first importance.[51]

The governor seems to have judged these men by the standards of representation then current in England, where "rotten boroughs" abounded, and where the people of many communities had only a virtual representation in Parliament; the burgesses believed that they were responsible to the con-

[49] Journals of the House of Burgesses, 1712–1726, p. 103.
[50] Ibid., p. 115.
[51] Ibid., pp. 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 170, and Introduction to same by Dr. H. R. McIlwaine, pp. xxix–xxxiii.

stituencies who sent them up, and that the Virginia law had replaced the older English ideas of virtual representation by a system of direct election, in which every freeholder was compelled by law to vote. The old order had changed, yielding place to the new; and virtual representation, such as the mother-country believed in, had been changed in the colony into actual and real representation. In the closing part of the executive's address there is a protest against ideas of popular representation and an expression of a sentiment always believed in by the privileged classes,—the idea that only the classes with property and a great stake in affairs should dictate governmental measures. Even today this protest of Governor Spottswood has a familiar ring, for now as then such views are the rallying cry of privilege. In protesting against the measures of the burgesses who had opposed him the governor said:

> This body of Gentlemen [the Council], as well as those few among you, who have all along dissented from your wild Proceedings [those of the burgesses who sided with the governor and the Council], must be allowed to have far greater concerns in *Virginia*, than all the Grand Governing Body of your House; so cannot be Suspected of having less at heart, than you, the Interest of the Country: and considering their parts and Stations, I must acknowledge them to be the best Judges thereof.
>
> But to be plain with you, the true Interest of your Country, is not what you have troubled your heads about; all your proceedings have been calculated to Answer the Notions of the ignorant Populace; And if you can excuse your Selves to them, you matter not how you stand before God, your Prince, and all judicious men, or before any others to whom, you think, you owe not your Elections.[52]

One of the most interesting and exciting cases dealt with by the General Assembly at any session during its entire existence as a legislative body came up for consideration during this session,[53]—the question whether the justice of any county could refuse to certify to the Assembly properly signed propositions and grievances or public claims. On August 4, the second day of the session, two complaints were laid before the House of Burgesses; one complaint

[52] Journals of the House of Burgesses, 1712–1726, p. 170.
[53] Ibid., Introduction, pp. xxx–xxxii.

charged the justices of New Kent County with having refused to certify some propositions and grievances "from the County of *New Kent* Signed by Several of the Inhabitants of the Said County," which the clerk of the New Kent court, who was examined before the whole house touching the matter, testified had been refused by the justices of the said court.[54] The other complaint was against the justices of Richmond County, and grew out of the fact that several public claims of that county, which had been presented to the House uncertified, were excused on the grounds that the said justices had neglected to meet and hold the court for the certification of claims and of propositions and grievances as required by the law.[55]

As regards the certification of both public claims and propositions and grievances the law was plain and specific. The act of Assembly of October, 1705, which was still in force, provided that at the time and place of election of burgesses for each county the sheriff, or in his absence the under-sheriff, of the said county should at the door of the court-house by public proclamation, three times made between the hours of one and three in the afternoon, give notice of the time appointed for a court to be held for receiving and certifying for the next session of the General Assembly the propositions and grievances and the public claims of "all and every person or persons within his county." It was further provided that these propositions and grievances or public claims should be signed by the person or persons presenting them to the court; and thereupon the chief magistrate then present, or the clerk, by the direction of the court, was ordered to certify such documents up to the General Assembly, sending them to the burgesses of the county for presentation to that body.[56]

The act did not give to the justices the power of examining propositions, grievances, or public claims for the determination of their justice or validity. Their function seems

[54] Journals of the House of Burgesses, 1712–1726, p. 124.
[55] Ibid., pp. 124, 125.
[56] Hening, vol. iii, pp. 245, 246.

to have been the purely administrative one of properly certifying the papers in question. The work of sifting these and determining which should be favorably considered was the function of the Assembly, which usually referred such business to the standing committees of public claims and of propositions and grievances. After the committees had reported favorably or unfavorably on the documents submitted to them by the Assembly, their reports were passed on by the House and then sent up to the Council for the concurrence of that body. Unless the justices of each county certified the public claims and the propositions and grievances presented to the court by the individuals of that county, there was no way of regularly presenting these claims to the General Assembly, and so these matters would not receive the attention of the legislature. The House of Burgesses acted promptly in the case of the complaints referred to above. On the day they were filed it ordered that the justices of the County of Richmond, who had neglected to hold the court for the certification of claims and of propositions and grievances, should be prosecuted by the attorney-general of the colony for the neglect of these duties, and that the claims from the County of Richmond should "be Referred to the Consideration of the Committee for Publick Claims to Examine the Matter thereof and Report the Same with their Opinion thereon to the House." After the clerk of the county court of New Kent County had been called in and examined by the House concerning the complaint from that county, it was ordered that the offending justices, Messrs. George Keeling, Richard Littlepage, Thomas Butts, and Alexander Walker, should be sent for in custody of the messenger of the House, and the speaker was ordered to issue his warrant accordingly.

On August 9 Richard Littlepage and Alexander Walker, who had been arrested by the messenger, were brought before the House for examination, after which they were ordered to make "an humble acknowledgment of their error at the bar of the House," and then receive the reprimand of

the speaker. Mr. Walker acted in accordance with the judgment of the Burgesses and was discharged from custody after he had paid the fees, but Mr. Littlepage obstinately refused to obey the commands of the House of Burgesses and was ordered to be kept in the custody of the messenger. On August 12 Mr. Littlepage and Mr. Butts, the latter of whom had in the meantime been placed under arrest but who had not as yet appeared before the bar of the House, made their escape. Upon being informed of their escape the House summoned before its bar the messenger who had been given the custody of the prisoners. After he had been examined he was judged guilty of a misdemeanor and of neglect in the execution of his office. Messrs. Littlepage and Butts were declared guilty of a "high misdemeanor and contempt of the authority" of the House, and it was ordered that they should be pursued and taken again into custody.[57] The execution of this order was assigned to a new messenger immediately commissioned by the governor. When the orders of the House had been communicated to Messrs. Littlepage and Butts, both of these gentlemen refused to give themselves up, saying that the House had no authority to send for them.[58] The messenger having informed the House of the refusal of the two justices to give themselves up, that body resolved "That an Humble Address be presented to the Governor that he would be pleased to give Such Orders and Directions as his Honour Shall think proper and necessary for the bringing of the said *Littlepage* and *Butts* before this house to Answer for their Repeated Contempts of the Authority of this House"; and it was ordered that the committee of elections and privileges should prepare and bring in the said address.[59] On the next day, August 16, Mr. Corbin, chairman of the committee of elections and privileges, reported this address, which was adopted, signed by the speaker, and sent up to the gov-

[57] Journals of the House of Burgesses, 1712–1726, pp. 130, 131, 135, 136.
[58] Ibid., Introduction, pp. xxx, 139.
[59] Ibid., p. 139.

ernor, the committee of public claims and the committee of elections and privileges having been appointed to present it. This address asked that the governor support the House by taking such steps as he might think proper in bringing before that body the recalcitrant justices.[60]

When the address was delivered to Governor Spottswood he returned a non-committal answer, stating that his concern for the honor of the House of Burgesses would always be equal to their concern for the honor of their country, and that the executive power would vindicate the representatives of the people "Conformable to the Support they agree to afford it."[61] As this reply promised nothing and showed the irritation of the governor at the neglect of the House to vote, up to this time, the supplies he had asked for the assistance of South Carolina, it was resolved to send him a second address, asking that he be pleased to issue such immediate orders as he should deem most effectual for causing Littlepage and Butts to appear before its bar. Again the committee of elections and privileges was ordered to prepare the address, which was reported to the House on August 18. This second address Dr. McIlwaine[62] thinks was the work of Mr. Clayton, the chairman of the committee of propositions and grievances, who was most probably asked to prepare it for the committee of elections and privileges because he seems to have been the best writer in the House. It is a well expressed paper, setting forth in excellent language the reasons why His Honor was again appealed to, and begging that steps should be taken by the executive to preserve to the House its ancient rights and privileges, which the contumacy of the two fugitive justices threatened to subvert. The address, after being reported to the House by the committee of elections and privileges, was accepted by that body, transcribed, signed by the speaker, and taken to the governor by the committee of elections and

[60] Journals of the House of Burgesses, 1712–1726, p. 140.
[61] Ibid., p. 142.
[62] Ibid., p. xxxi.

privileges, the committee of public claims, and seven members in addition.[63]

On August 19 Governor Spottswood sent to the House a written reply to the second address, his answer showing the same irritation that had been displayed in his verbal reply to the first address. After stating his sorrow and concern at the fact that the House had not yet granted the supplies for which he had repeatedly asked, he stated that he was ready to assist that body in maintaining its just rights and privileges but must be excused from aiding in any of its invasions of the royal prerogative, and that it had no right to erect itself into a court of judicature for the trial of the justices of the peace.[64] On August 20 the House took under consideration this written communication, and as a result of its deliberations adopted the following resolutions:

Resolved That the House have an undoubted Right of Receiving hearing and Redressing the Grievances of the Inhabitants of this Colony when legally Certified, and that *Richard Littlepage* and *Thomas Butts* two of the Justices of *New Kent* County Court at a Court held in the said County for Receiving and Certifying the Propositions and Grievances of the People and Inhabitants of the Said County, their Refusing to Receive and Certify the Propositions and Grievances of the People and Inhabitants of the said County is Arbitrary and illegal and a Subverting of the Rights and Libertys of the People.

Resolved That this House in sending for *Richard Littlepage* and *Thomas Butts* two of the Justices of *New Kent* County Court in Custody of the Messenger of this House, for their refusing to Receive and Certify the Propositions and Greivances of the People and Inhabitants of the said County Did not intend to Invade and are of Opinion have not Invaded any part of the Royal Prerogative.

Resolved That the said *Richard Littlepage* and *Thomas Butts* in Disobeying the Orders of this House, Escaping out of the Custody of the Messenger, and Contemning the Authority of this House, are Guilty of a great Misdemeanour and Contempt and ought to be Punished for the Same.

Resolved That the said *Richard Littlepage* and *Thomas Butts* ought to be compelled to appear and Answer their Said Misdemeanour and Contempt at the Bar of this House.

Resolved That a suitable address to the Governor be drawn up upon the Said Message.[65]

[63] Journals of the House of Burgesses, 1712–1726, p. 144.
[64] Ibid., p. 143.
[65] Ibid., p. 145.

In accordance with these resolutions it was ordered that the committee of elections and privileges should prepare and bring in a suitable address to the governor, and three additional members were added to assist in the work. On Monday, August 22, this committee reported to the House the address that they had drafted, which was read, adopted by the House, transcribed, and signed by the speaker, and was sent to the governor by the committee that had prepared it and nineteen additional members appointed for that purpose.[66] The Burgesses reviewed their conduct during this session and defended their action on various matters, especially as regarded the case of the two justices in question. They protested that they had no desire or intention to invade the royal prerogative, nor any desire or claim to the privilege of appointing the justices of the peace. It seemed to them, however, "that when Justices in Cases where they are not Judicial but Ministerial only will Assume a Jurisdiction and by their Judgement Debarr the People and their Representatives of the Rightful ways and means prescribed by Law for Redressing their Grievances by Excluding them from a true Representation thereof. We believe that Such Matters do concern the Burgesses in Assembly and We rather incline to that Opinion because the Law has not made any other Provision in that Case."

With this address the Council did not agree, claiming in a written message sent to the House on August 23 that the Burgesses had tried to assume to themselves the entire power of hearing and redressing grievances, when in reality that power was lodged in the whole General Assembly.[67] On the next day the House considered this written message from the Council, and it was resolved that a written answer should be prepared by the committee of propositions and grievances. On August 25 Mr. Clayton, the chairman of this committee, reported to the House a very dignified reply to the Council in which that body was assured that it was not the intention of the Burgesses "to attempt to invade any

[66] Journals of the House of Burgesses, 1712–1726, pp. 147, 148.
[67] Ibid., p. 148.

of the privileges of the upper house," and explaining to the councillors how certain propositions and grievances were sometimes directed to the House and sometimes not even directed at all. The address stated that the Burgesses would willingly transmit to the Council all such propositions and grievances as it might desire to inspect. This reply was presented to the Upper House by the committee of propositions and grievances, which had drafted the reply.[68]

In another message to the House, delivered on August 27, Governor Spottswood maintained that frequently propositions and grievances had in the past been received and considered by the General Assembly, even though they had failed to receive the attestation of the county courts. Such uncertified grievances, he pointed out, had been by no means barred by the House during this session. If the justices were not to use their judgment in distinguishing between those propositions and grievances which were baseless and those which were just, he saw no reason why they should be submitted to the court before they were sent to the Assembly. That this was probably the first instance in which the House of Burgesses had ever attempted to punish justices for presuming to judge of the truth or falsity of complaints of this nature was asserted by the governor, who declared himself opposed to assisting the Burgesses in making good an assertion of rights and privileges which exceeded any claimed by their predecessors.[69] In another set of resolutions, adopted on September 2, the members of the House asserted that their only motive in following the course they had pursued was their desire to support the rights and liberties of the people against those who sought "to deprive them of the benefit given by law;" that the grievance from New Kent contained nothing false or seditious; that the justices of that county, as the first to refuse the certification of such papers, ought to be punished at the bar of the House; and that the governor's refusal to aid

[68] Journals of the House of Burgesses, 1712–1726, pp. 148, 149, 150.
[69] Ibid., pp. 152, 153.

in compelling the recalcitrant justices to appear before the House denied to that body their "just rights and privileges."[70] The Council sided with the governor in a long message delivered on the last day of the session, and Spottswood, in a long address[71] delivered just before he dissolved the Assembly, went over most of the ground covered by his former arguments, but in a less vehement manner than in this last remarkable speech. Of this speech Dr. McIlwaine says: "Leaving aside the spirit in which it was conceived, the address of the governor made at the close of the session gives a good summary of the attempted legislation. This speech is, however, bitter, unfair, and insulting to the opponents of the governor, most, probably all, of whom were as honest as the governor himself, and many of whom were as sagacious."[72]

In this session there was an interesting case which illustrates the workings of the committee of elections and privileges in passing on the election and qualifications of members of the House of Burgesses, that of Messrs. William Cole and Cole Diggs, who had been returned as burgesses from Warwick County. During their canvass these gentlemen had made preelection promises that they would not draw any salary if elected burgesses. When these promises were reported to the House, the matter was referred to the committee of elections and privileges for investigation. The result of this investigation was a report declaring that the charges against Messrs. Cole and Diggs had been investigated and found true. Accordingly these gentlemen were declared not duly elected, and the governor was asked to issue writs for a new election. At this election these gentlemen were returned by their constituents, and their credentials were this time accepted by the committee of elections and privileges, which declared them duly elected.[73] As these representatives from Warwick were among the small

[70] Journals of the House of Burgesses, 1712–1726, pp. 159, 160.
[71] Ibid., pp. 164, 165, 166, 167, 168, 169, 170.
[72] Ibid., Introduction, p. xxxiii.
[73] Ibid., pp. 126, 128, 141.

number of supporters of the governor in the House of Burgesses, Spottswood seems to have been incensed that the House had unseated them, and in his message of August 27, above alluded to, he criticized the Burgesses for their action in the matter. The Burgesses in their resolutions of September 2 affirmed that they had acted in accordance with the laws of the colony for regulating the election of burgesses. To this the Council replied that there was no law in Virginia to prevent a candidate from offering to serve without pay, and the governor, in his closing address, commented in a sarcastic manner on the incident.[74] However, in this matter the House of Burgesses was undoubtedly in the right, for the law distinctly disabled any one from sitting as a member who made a gift of money or anything else or promised any gift or reward to any "person or persons in Particular" or to any "county, Town, or corporation in general." As each county at that time paid the salaries of its two representatives in the House of Burgesses, the offer of service without salary was a promise of reward to the county.[75]

During this session the three standing committees were as follows: elections and privileges, five members; public claims, twelve members; and propositions and grievances, eleven members.[76] Throughout the session these committees were very active in the transaction of the routine business usually assigned to them; in addition, as has already been shown, they performed other duties of a special character, but in a manner growing out of the nature of their relation with the usual work of the committees.

During the two sessions of 1718 and the two sessions of 1720–1722 the standing committees were regularly appointed. On April 23, 1718, the standing committees were named, consisting of the committees for elections and privileges, public claims, and propositions and grievances, with

[74] Journals of the House of Burgesses, 1712–1726, pp. 152, 153, 159, 160, 164, 165, 166, 167, 168, 169, 170.
[75] Hening, vol. iii, p. 243.
[76] Journals of the House of Burgesses, 1715, pp. 123, 138.

five, eleven, and eleven members respectively.[77] At the second session of this Assembly these same standing committees were reappointed with substantially the same membership, both in number and personnel.[78]

In the first session of 1720–1722, the last Assembly to be held during the governorship of Spottswood, the usual standing committees were appointed on November 3, 1720: elections and privileges with five members; public claims, eleven members; and propositions and grievances with thirteen members. At the second session, convened May 9, 1722, the committees of the former session were revived by order of the House of Burgesses.[79]

On May 10, 1723, at the beginning of the first session of the Assembly of 1723–1726, the three standing committees were appointed, and for the first time a statement of the functions of each committee follows the list of members. Seven members were appointed to the committee of privileges and elections,[80] and the journal states that "they are to meet as often as they find it Necessary and to take into their Consideration All such Matters as shall be or may come in Question touching Returns Elections and Privileges and to report their proceedings with their Opinions therein to the House from time to time and the said Committee is to have power to Send for Witnesses Persons Papers and Records for their Information." Eleven members were named as a committee for public claims, "and the said committee are to meet and to take into their Consideration all matters concerning the public Claims of the Country and to report their proceedings with their Opinions therein to the House and the said Committee is to have power to Sit from day to day and to send for Persons Papers and Records and they are to inspect the Report of the Committee for Publick Claims of the last session of Assembly and make

[77] Journals of the House of Burgesses, 1718, pp. 175, 176.
[78] Ibid., p. 221.
[79] Ibid., 1720–1722, pp. 251, 230.
[80] Ibid., 1723–1726, p. 361. The first time the name is written "privileges and elections." Heretofore the Journals have it "elections and privileges."

report to the House of any matter they shall find therein necessary to be further Considered this Session." Thirteen burgesses were named as the committee for propositions and grievances, and it was stated that "they are to meet and to take into their Consideration All Propositions and Grievances wch. shall be Offered to the Assembly and to report their proceedings with their Opinions therein to the House from time to time And the said Committee is to have power to Sit from day to day and to Send for Persons Papers & Records."[81] In the second session, which did not meet until May, 1726, the standing committees appointed in the first session were revived.[82]

During the latter years of Governor Spottswood's incumbency he was on bad terms with the majority of the burgesses, and in the session of 1718 not only the majority party in the House, but several members of the Council seem actively to have opposed him. However, things ran more smoothly during the last General Assembly held while he was governor of Virginia, and whether the pacification that had been brought about between the pro-administration and anti-administration factions was superficial or not, at least there were no violent outbreaks such as had characterized the session of 1718. The Assemblies held during the twenty-two years in which William Gooch held the office of lieutenant-governor of the colony were characterized by cordial relations between the executive and the people whom he had been sent to govern. An examination of the opening and closing speeches made by Governor Gooch in any of the sessions held during his term of office will show the good feeling which he had for the members of the House of Burgesses, a feeling which seems to have been reciprocated.

At the first session of 1727–1734 the standing committees of privileges and elections, public claims, and propositions and grievances were appointed, consisting of seven, ten, and eleven members respectively. The duties of each were

[81] Journals of the House of Burgesses, 1723–1726, pp. 361, 362.
[82] Ibid., p. 400.

stated, and in addition to its regular work the committee of propositions and grievances was ordered "to inspect the Journals of the last Session of the last Assembly, and to prepare and draw up a State of the Matters then depending and undetermined, and the progress that was made therein, and to report the same to the House. And they are also to examine what laws have expired since the last Session of the last Assembly, and to inspect such temporary Laws as will expire at the end of this Session of Assembly and Report the same to the House with their opinions which of them are fit to be revived or continued."[83] The assigning to the already hard-worked committee of propositions and grievances of these duties, which later were given to the committee for courts of justice, rendered it the busiest in the House, although the smaller committee of privileges and elections, with a large number of contested election cases in this session, was also an exceedingly busy one.

In his address at the opening of this session Governor Gooch had urged upon the General Assembly the importance of "agreeing upon some methods to prevent delaies in the Courts of Justice, so very obvious & inconvenient to the People in general," and following his recommendation the House of Burgesses, on February 10, 1727, appointed a committee for courts of justice, consisting of the attorney-general as chairman and six other members. The resolution appointing this committee states that "they are to sit in the Clerk's Office, and to inquire into the methods of proceedings in the Courts of Justice and the occasions of the delaies therein, and to prepare a Bill for amending the defects of the Laws now in force relating to the several Courts of the Colony, and for the expediting of Business: And the Com'ee are to appoint a Clerk to attend them, and to have power to send for persons, papers & Records for their information."[84] In the second session of this Assembly all

[83] Journals of the House of Burgesses, 1727–1740, pp. 5, 6. See pp. 9, 16, for two additions to committee of propositions and grievances, and p. 18 for an addition to that of privileges and elections.
[84] Ibid., pp. 5, 6, 16, 17.

of the standing committees of the preceding session were revived, namely, privileges and elections, propositions and grievances, public claims, and courts of justice; and the continuance of the last named along with the three well established and usual standing committees shows that it was already considered important enough to be a permanent addition to the standing committee system.[85]

The third session was begun May 18, 1734, and on the second day the House of Burgesses revived its four standing committees as follows: privileges and elections, consisting of five members; propositions and grievances, twelve members; courts of justice, twelve members; and public claims, eleven members.[86] These four committees with substantially the same membership were revived in the fourth and last session, which was called together in August, 1734.[87] The committee for courts of justice was also instructed to inquire "into such Temporary Laws as may be near expiring after the End of this Session of Assembly; and report their Opinion to the House, which of them are fit to be continued."[88] On August 30 the treasurer's accounts were referred for examination to the same committee, which was ordered to report to the House the balance in the hands of the treasurer.[89] Further idea of the importance of the newly appointed committee for courts of justice is shown by the number of matters referred to it during this session.

Notwithstanding the stubborn opposition of both the Council and Governor Spottswood to the action of the House of Burgesses in 1715 in taking cognizance of justices who refused to certify propositions and grievances to the General Assembly, it appears that by 1727 its right to reprimand justices who refused to certify petitions or claims presented to them according to law was clearly recognized, even where the matter of the petition was known to the justices to be false. As the House of Burgesses had con-

[85] Journals of the House of Burgesses, 1727–1740, pp. 59, 61.
[86] Ibid., pp. 117, 118.
[87] Ibid., pp. 172, 173, 174.
[88] Ibid., p. 180.
[89] Ibid., p. 183.

tended in the case of the New Kent justices in 1715, the function of the courts in certifying petitions, claims, and propositions and grievances was not a judicial but purely a ministerial one. The right of punishing the justices who refused to certify such papers was exercised in 1727 in the case of James Wallace and Jacob Walker, who were reprimanded before the bar of the House, and dismissed from custody after paying costs.[90] For similar offences on the part of the justices the House exercised the right of inquiry and punishment repeatedly during subsequent General Assemblies, seemingly without further question on the part of either the Upper House or the executive.

Of the General Assembly of 1736–1740 there were likewise four sessions, the long ones being as follows: August 5 to September 22, 1736, November 1 to December 21, 1738, and May 22 through June 16, 1740; a short session lasted from August 21 to August 29, 1740. The House of Burgesses elected to this General Assembly was the largest one that had yet represented the colony, being composed of seventy-one representatives; its size probably accounts in part for the fact that its standing committees had a larger membership than at any time previous, although the fact that the legislative needs of a rapidly growing colony made the committee duties more onerous would also help to account for the increase in the size of their membership. When the committees were appointed at the opening session, twelve members were assigned to the committee of privileges and elections, heretofore never larger than from five to seven members; thirteen were named as a committee of public claims, usually consisting of about ten members; while the committees of propositions and grievances and of courts of justice were composed of eighteen and seventeen members, respectively, about double their former membership.[91]

An examination of the journals of the General Assembly of 1736–1740 would seem to indicate that a well established rule of seniority was applied to these standing commit-

[90] Journals of the House of Burgesses, 1727–1740, p. 17.
[91] Ibid., pp. 244, 245.

tees, as regards the chairman and ranking members of each. To make this clear let us examine the revival in the second session of the standing committees appointed in the first. In the first session the committee of privileges and elections had consisted of the following members: Conway (chairman), Robinson, Harrison, Corbin, Randolph, Acrill, Fitzhugh, Waring, McCarty, Walke, Boush, and Burwell. As revived in the following session it was composed of Conway (chairman), Harrison, Corbin, Randolph, Fitzhugh, Waring, McCarty, Walke, Burwell, and Allen. It is easy to account for the absence of Robinson's name, for that gentleman had succeeded to the speakership upon the death of Sir John Randolph, who had been speaker in the first session, and his promotion to the place of presiding officer had rendered him ineligible to this committee. William Acrill had died before the convening of the second session. Just why the name of Boush is missing is not clear. He was certainly present at this meeting, but from the fact that on December 9 he was allowed to go home for the recovery of his health it is a reasonable conjecture that he was excused from committee duties on account of sickness. Mr. Barradall, the attorney-general, who had succeeded Sir John Randolph, deceased, as representative of the College, was added to this committee.[92]

The members of the claims committee in the first session were Blair (chairman), Price, Bowdoin, Harmanson, Sweny, Turner, Ball, Beverley, Buckner, Haynes, Eaton, Claiborne, and Scarburg. As far as its ranking members were concerned, this committee as revised in the second session was exactly the same, the only change in its personnel being below the first six members. The committee for courts of justice had the same chairman in both of these sessions, Mr. Corbin, and the members serving were substantially the same. During the first session Mr. Robinson had been chairman of the important committee of propositions and grievances, with Mr. Corbin the next in line; Mr. Corbin,

[92] Journals of the House of Burgesses, 1727–1740, pp. 244, 321, 325, 271.

however, was already chairman of the committee for courts of justice, and when Mr. Robinson became speaker of the House during the second session of this Assembly Mr. Fitzhugh, another member of the committee of propositions and grievances, was made chairman in Mr. Robinson's place.[93]

In the first session of the General Assembly of 1736–1740 a standing committee consisting of Messrs. Carter, Acrill, Fitzhugh, Harrison, and Waring was appointed "to prepare and draw up a State of that Duty, the duty on slaves imported into the colony and the several Paiments that have been made, with the Amount thereof."[94] It was provided with a clerk, and became so important that it was revived in the other two long sessions of this General Assembly, and in the General Assembly of 1742 it became the standing committee of trade, which was made one of the regular system of committees. In the three sessions of 1736–1740 this committee consisted of five members, its personnel undergoing one change only, Mr. Beverley taking the place of Mr. Acrill on the death of the latter.

In the third session of this General Assembly all of the standing committees were revived. Three of the committees—privileges and elections, propositions and grievances, and the committee appointed to prepare and draw up a state of the duty upon slaves, and so on—retained the same chairmen, while more recent appointees had risen to the head of the other committees. Mr. Barradall, the attorney-general, was made chairman of the committee for courts of justice, and Mr. Beverley was appointed chairman of the committee of public claims. Both of these new committee heads seem to have been able and active burgesses, and the fact that a newly appointed member like Mr. Barradall could so soon rise to the headship of an important committee would seem to argue that the seniority rule did not bar the way to the rapid rise of an able legislator. However, the general rule seems to have been the gradual rise

[93] Journals of the House of Burgesses, 1727–1740, pp. 244, 245, 321, 322.

[94] Ibid., pp. 250, 322, 394.

to the leadership of the committee through service on that committee. It is also interesting to note that the House of Burgesses in this session ordered that seven of the committee of propositions and grievances and five of all the other committees should constitute a quorum. This marked the beginning of a customary regulation of the number of committee-men sufficient for the transaction of legislative business, and established a precedent for future sessions.[95]

As soon as the General Assembly of 1742–1747 was called together for its first session, the House of Burgesses elected its speaker and appointed the five regular standing committees.[96] To the committee of privileges and elections eleven members were assigned, sixteen to the committee for courts of justice, nine to the committee of trade, fifteen to the committee of public claims, and twenty-eight to the committee of propositions and grievances. The number appointed to these committees corresponded fairly well to the volume of business referred to each of them, as an examination of the journal will show. The House, however, did not transact all of its business through these standing committees, but appointed special committees as the occasion required; and for the discussion of especially important matters use was made of the committee of the whole. At this session, as had become the custom, the speech of the governor—today this would be called the governor's message—was discussed in the committee of the whole, and the continuation and improvement of the all-important tobacco law, one of the questions brought to their attention by the governor, was thus considered many times after the first draft of the bill had been submitted to the House by a special committee appointed for that purpose.[97]

Among the special committees named the following were important, as can be judged by the subjects with which they had to deal: the special committee appointed on June 11 to

[95] Journals of the House of Burgesses, 1727–1740, p. 394.
[96] Ibid., 1742–1749, pp. 5, 6, 7.
[97] Ibid., pp. 5, 6, 7, 13, 36, 38, 40, 42, 43, 44, 45, 46, 49, and Introduction, p. xv.

examine the treasurer's accounts, a similar committee being named at each regular session; the committee chosen on June 16 for "proportioning the public levy," a committee which appears with great frequency; and a committee named the same day for "examining the inrolled bills," one which appears not infrequently in the journals.[98]

During the second session, which convened in September, 1744, and in the third session, called together in February, 1746, the regular standing committees were revived with substantially the same membership as in the first session, there being only slight variations in number of members and personnel.[99] In the short session of July, 1746, in which none of the regular standing committees were appointed, and in that called in March, 1747, in which only the committee of privileges and elections was revived, the standing committees did not figure very largely. These sessions were held to enact emergency legislation, and little other business was transacted.[100]

The General Assembly of 1748–1749 held only one session, a long one which lasted from October 27 to December 17, 1748; on that date a recess was taken until March 2, 1749, when the session was resumed and continued through May 11 of the same year. This was an extremely busy session, the committee for the revisal of the laws having reported their work, and much of the regular routine work having been carried over from the short sessions of the preceding assembly,—special sessions in which little of the regular legislative business was considered. Many of the propositions and grievances and public claims that had been carried over came up for consideration in this Assembly, and these, added to the papers of a similar nature intended for the newly chosen Assembly, rendered the work of the com-

[98] Journals of the House of Burgesses, 1742–1749, pp. 11, 63.
[99] Ibid., pp. 77, 78, 80, 156, 157.
[100] Ibid., pp. 225, 226, 235, 236. The reasons for calling the special sessions were to raise an appropriation of £4000 to procure men for an expedition into Canada, and to consider measures to rebuild the capitol of the colony at Williamsburg, it having been destroyed by fire.

mittees of propositions and grievances and of public claims unusually heavy. To the committee for courts of justice fell a large amount of the extra work connected with the consideration and adoption of the report of the committee on revisal of the laws. This report was in three parts: first, it advised the repeal of twenty-one acts that had become obsolete, useless, or were otherwise provided for, citing the acts in a list following the resolution recommending their repeal; second, it recommended that certain other laws be allowed to remain in force without amendment, naming thirty-six acts to be so treated; and third, it presented in the shape of bills for the action of the House the other laws then in force, these bills being either a law amended or several laws on the same subject consolidated into one bill. The first and second recommendations of the committee for revisal were at once agreed to, the committee for courts of justice being ordered to bring in a bill for the repeal of the acts listed in the first section of the report, while the acts listed in the second section continued in force ipso facto, as their time had not expired.[101] Later in the session the House determined to transfer to class one a law put by the committee on revisal into class two, and ordered the committee for courts of justice to include it in the bill for the repeal of the laws that had become useless.[102]

The bill for repealing several acts of Assembly was reported to the House by the committee for courts of justice on May 4, and in a few days passed both houses of the Assembly and received the governor's signature.[103] As the bills were presented by the committee of revisal they were from time to time introduced into the House to suit the convenience of that body. In their passage through the House these bills were subjected to the same forms of procedure as were other bills; they had to go through three readings, were sometimes considered by the committee of

[101] Journals of the House of Burgesses, 1742–1749, pp. 277, 278, 280, 281, xxix, xxx.
[102] Ibid., p. xxix.
[103] Ibid., pp. 389, 396, 397, 400, 405.

the whole, were frequently amended, and in some instances were refused passage. In their consideration of these bills the Council also followed its usual procedure, making amendments of its own and when it thought proper rejecting the amendments of the House. There was an enormous amount of work connected with the consideration of the vast number of bills which the Assembly considered in this session; for besides the eighty-nine bills that finally received the executive signature and became law, not a few bills that were introduced were thrown out at various stages of the legislative procedure. As only permanent and public acts had been considered by the committee for revisal of the laws, the committee for courts of justice had at this session to review all the temporary and private laws to see which were about to expire and to recommend the continuance of those it deemed necessary. This statement will serve to show that the committee for courts of justice was a very busy committee when this special function was added to its usual duties.

During this session the various standing committees were made up of the following number of members: privileges and elections, fourteen; propositions and grievances, thirty-two; public claims, seventeen; courts of justice, eighteen; and trade, seven.[104] The small number of the last named committee can be accounted for by the fact that there was not so much business before its members as came before the other older standing committees. As a rule the heavier the work of a committee the larger the number of members appointed to it; and members were not infrequently added to the various committees from time to time during the session as an accumulation of business might require.

Of the General Assembly of 1752–1758 there were eight sessions, the first, second, and sixth of which seem to have been used for the conduct of regular legislative affairs, while the others were shorter special sessions, called in order to provide for expeditions against the French and their

[104] Journals of the House of Burgesses, 1742–1749, pp. 258, 259.

Indian allies along the frontier. In each of the regular sessions the usual committees were appointed. The standing committees of the first session were as follows: privileges and elections, fourteen members; propositions and grievances, thirty-four members; public claims, twenty-five members; courts of justice, twenty-one members; trade, nine members. Eleven members of the committee of propositions and grievances and five of any other committee was decided on as a quorum for the transaction of business.[105] The same committees with few material changes in membership appear in the second session, having been appointed on November 5, 1753; and in the sixth session, which began May 1, 1755, the five committees were appointed without many changes in their personnel.[106]

The third session of this General Assembly was called by Dinwiddie on February 14, 1754, although the former session had been prorogued to April of that year. The reason of this haste in convening it for another session was the report of Major George Washington on his mission to the French commander in the disputed territory on the Ohio, which had just been received by Governor Dinwiddie. In his opening address the governor asked that the Assembly vote a supply for the purpose of aiding the king to establish his claim to the lands in dispute. In this session the regular standing committees were not appointed, the House of Burgesses devoting most of its time to the raising of the supply for which it had been called together.[107] This supply was voted in an "act for the encouragement and protection of the settlers upon the Waters of the Mississippi" which provided that the treasurer should be empowered to borrow £10,000 at six per cent interest, which was to be spent in giving protection to the western settlers, and which provided for the payment of this borrowed money and the interest thereon by placing an additional duty of five per

[105] Journals of the House of Burgesses, 1752–1758, pp. 6, 7.
[106] Ibid., pp. 107, 108, 234, 235, 237.
[107] Ibid., pp. 175, 176, 177

cent on slaves imported, and by taxes on vehicles, on licenses on ordinaries, and on various legal documents.[108]

To supervise the expenditure of this sum the law named a committee of directors who

> shall, from time to time, with the consent and approbation of the governor or commander in chief, for the time being, direct and appoint how the said money shall be applied, towards the protecting and defending of his Majesty's subjects, who are now settled, or hereafter shall settle, on the river Mississippi, and that the said directors shall, as often as there shall be occasion of money for the use of the aforesaid, apply themselves to the governor, or commander in chief for the time being, to issue out his warrants to the said treasurer to pay so much money as shall be wanting for the purpose aforesaid, who is hereby required to pay the same accordingly.[109]

This committee of directors was a joint committee from the two legislative branches, which was to serve with the governor in using the fund appropriated in the act. It was a standing recess committee which should speak for the legislature in the use of money raised by it for specific purposes. Dinwiddie objected to the appointment of this committee as an encroachment on the prerogative, as it quite probably was; but the House could plead as a precedent the act of 1746 for raising £4000 to be used in the expedition against Canada, in which a similar committee had been named.[110] The House of Burgesses seemed determined that the principle back of the fact that a money bill must originate in the House should be broadened to allow the agents of the General Assembly supervision over the expenditure of money raised in the colony. It is significant that both the committee appointed in the act of 1746 and that named in the act of 1754 were controlled by the House of Burgesses.

The eighth and last session of this General Assembly was a short "extra" one. The most interesting act passed was the first of the series of acts known as the "Two-Penny Acts." This act of 1755, while not far-reaching in its

[108] Hening, vol. vi, pp. 417, 418, 419, 420.
[109] Ibid., p. 418.
[110] Ibid., vol. v, pp. 401, 402, 403, 404.

effects, led to the passage of other legislation of a similar nature, culminating in that of 1758, out of which grew the famous "Parsons' Cause." On November 4, 1755, the House ordered that "leave be given to bring in a bill for supplying the deficiencies of the several funds for the protection of this Colony against the encroachments and depredations of the French and Indians, and for advancing and securing the public credit." In the regular manner this bill was brought in by the committee appointed to draft it, passed by the House, and sent to the Council, which refused its concurrence in the measure. On the day of its rejection by the Council, Dinwiddie dissolved the Assembly.[111] The reasons for his hasty dissolution he has given in his correspondence. In a letter to Governor Dobbs of North Carolina he stated that the House wished by means of this bill to set up a loan office and to emit £200,000 paper money. To the Board of Trade he wrote that the money was to be issued for eight years and without proper security; that he had given his assent to the two former issues of paper money because the emergency required it in each case and because each issue was for a short period and well secured; the issue proposed in this bill would be, he thought, pernicious to the credit of the country. He also stated that the members had become very irregular in their attendance on the meetings of the House, and that they had begun "again to be troublesome and factious." Therefore he had determined to dissolve the present Assembly and take his chances with a new election.[112]

This new General Assembly, that of 1756–1758, met for its first session on March 25, 1756, and the session continued until May 5. Out of a possible one hundred and four members of the House of Burgesses there were present eighty-five. A comparison of its list of members with

[111] Journals of the House of Burgesses, 1752–1758, pp. 328, 329, 330, 331, 332.

[112] Ibid., pp. xxiv; The Official Records of Robert Dinwiddie, Collections of the Virginia Historical Society, vol. ii. pp. 266, 269. Cited as Dinwiddie Papers.

that of the last session of 1752–1755, made by Dr. McIlwaine,[113] shows a change of about thirty-eight per cent in the membership of the House. As most of the old leaders were returned, it would seem that the change of personnel was of no great assistance to the governor, for the House of Burgesses insisted on serving the country according to its own ideas. At the opening session only one of the usual standing committees was appointed—the committee of privileges and elections[114]—and the House did not take up any of the usual business, devoting most of its time to the emergency legislation for which it had been called together. At the second session, which was also a special session, and a much shorter one besides, none of the regular standing committees were appointed and the regular business was carried over.

In the third session, which convened April 18, 1757, the five usual standing committees were appointed: privileges and elections, seventeen members; propositions and grievances, twenty-eight members; public claims, sixteen members; courts of justice, fourteen members; trade, eleven members. It was resolved that eleven of the committee of propositions and grievances and five of the other committees should be a quorum sufficient for the transaction of committee work, and that the "several Clerks to the Committees be continued in their respective Offices."[115] This was the last session to be held under the incumbency of Dinwiddie. He left the colony in January, 1758, and as his successor, Francis Fauquier, did not reach the colony until the 7th of June the last short session of this Assembly was called by the president of the Council, John Blair, who was ex-officio governor until the arrival of Governor Fauquier. At this session no standing committees were appointed, and only emergency legislation to provide supplies and troops was passed.

The General Assembly of 1758–1761 held seven sessions.

[113] Journals of the House of Burgesses, 1752–1758, p. xxv.
[114] Ibid., p. 338.
[115] Ibid., pp. 417, 418, 419.

At the first of these, that of September–October, 1758, only the committee of privileges and elections was appointed, the main attention of the Assembly being given to such business as was absolutely necessary, and the propositions, grievances, and claims being referred to the succeeding session.[116] In the second session, which lasted only three days and of course transacted only war business, no standing committees were appointed.[117] It was not until the third session, February 22 to April 14, 1759, that the regular system of committees was again appointed.[118] This was a fairly long session, and with the business carried over from the preceding sessions, together with the regular business of this session, the committees seem to have found much work on their hands. In the fourth, fifth, and sixth sessions, held for short periods in November, 1759, and in March and May, 1760, no regular business except that of the utmost importance seems to have been transacted and no standing committees of the House were appointed.[119] The postponement of work from these short sessions carried over considerable business to the seventh session, which became the longest up to this time, lasting more than six months; it included a recess period of about one and a half months, during which time the Assembly was held over to act on the revisal and renewal of the important tobacco law, which could not be considered before the regular time for the prorogation. Hence the prorogation was changed into an adjournment which kept the Assembly in session until the business of the general court had been transacted and the governor and the Council, who composed that judicial body, could join the House of Burgesses in legislative business.[120] Most of the regular business of the session being postponed until after the recess, the regular standing committees were not appointed until that time. This session

[116] Journals of the House of Burgesses, 1758–1761, pp. 5, 6, 7.
[117] Ibid., pp. 49, 50, 51, 52.
[118] Ibid., pp. 57, 58, 59.
[119] Ibid., pp. 133–179.
[120] Ibid., pp. xi, 184, 185.

was a busy one, as the thirty-one acts passed will testify.[121] Governor Fauquier's speech at its closing shows that he regarded the House of Burgesses as composed of highly capable and honest men.[122]

The first three sessions of the General Assembly of 1761–1765 were short ones in which none of the regular standing committees were appointed save the committee of privileges and elections, which was named in the first session. It was not until the fourth session, which began in November, 1762, that all five of the regular standing committees were again named. There was a large amount of business to be transacted and the committees were very busy, as is shown by the fact that most of them were larger than ever before. The committees of this session were as follows: privileges and elections, Richard Bland, chairman, twelve members; propositions and grievances, Peyton Randolph, chairman, thirty members; public claims, Archibald Cary, chairman, eighteen members; courts of justice, Edmund Pendleton, chairman, ten members; and trade, Benjamin Harrison, chairman, sixteen members.[123]

In the session of October, 1764, the same committees were appointed with the same chairman for each. Their membership was greater than in the session just mentioned; the House of Burgesses had grown to be a large body with the creation of new counties in the "up country," and the legislative needs of the growing colony were rapidly multiplying as the population increased. In this session the committees were as follows: privileges and elections, nineteen members; propositions and grievances, forty-three; public claims, twenty-seven; courts of justice, nineteen; and trade, ten.[124]

In the session of the General Assembly of 1766–1769 the standing committees were appointed, and both their size and the prominence given them in the transaction of the

[121] Journals of the House of Burgesses, 1758–1761, pp. 199, 201, 202, 194, 196, 256, 257.
[122] Ibid., p. 258.
[123] Ibid., 1761–1765, pp. 68, 69, 70.
[124] Ibid., pp. 230, 231.

legislative business show how great a part they now played in the procedure of the Lower House. Already the vast bulk of the legislative work—most of the routine duties and many special duties—was performed by them. In the session of 1766 the standing committees were: privileges and elections, eighteen members, Edmund Pendleton, chairman; propositions and grievances, forty-five members, Richard Bland, chairman; public claims, twenty-nine members, Archibald Cary, chairman; courts of justice, twenty-three members, Richard Henry Lee, chairman; and trade, sixteen members, Benjamin Harrison, chairman.[125]

In the session of 1769 the five regular committees were appointed, the same members serving as chairmen who had served in the session of 1766. However, another standing committee appears in this session,—the committee for religion, with Robert Carter Nicholas, the treasurer of the colony, at its head.[126] With the growth of dissent and the increasing dissatisfaction with the vestries of many of the parishes, so many complaints and propositions and grievances were coming up to the House of Burgesses that another standing committee was created to consider these petitions. From its first appearance to the end of the colonial period it was continued as one of the regular committee system.

During the next General Assembly no standing committees were appointed until February, 1772, when the six regular ones were named as follows: privileges and elections, twenty-one members, Edmund Pendleton, chairman; propositions and grievances, thirty-two members, Richard Bland, chairman; public claims, eighteen members, Archibald

[125] Journals of the House of Burgesses, 1766–1769, pp. 14, 15, 16.

[126] Ibid., pp. 228, 229. Jameson, The Origin of the Standing-Committee System, says: "In the memorable session of 1765 a committee of religion was added" (p. 263). Dr. Jameson gives as authority for this statement the Journals of the House of Burgesses, 1732–1774. A search through the journals for the year 1765 shows that no standing committee for religion was appointed in that year. The committee for religion does not appear as a standing committee until 1769. After this date the committee seems to have been one of the regular system of committees.

Cary, chairman; courts of justice, sixteen members, John Woodson, chairman; trade, nineteen members, Benjamin Harrison, chairman; and religion, twenty-two members, Robert Carter Nicholas, chairman.[127] At the session of March, 1773, none of the regular standing committees were named except the committee of privileges and elections, which was headed by the same chairman, and composed of practically the same members as in the preceding Assembly. It was not until May, 1774, that the regular system of standing committees was again named, as follows: privileges and elections, twenty-four members, Edmund Pendleton, chairman; propositions and grievances, thirty-seven members, Richard Bland, chairman; public claims, twelve members, Richard Lee, chairman; courts of justice, ten members, Richard Henry Lee, chairman; and religion, twenty-eight members, Robert Carter Nicholas, chairman.[128]

The last session of the colonial House of Burgesses at which the standing committees were appointed was the session of June, 1775, when they were made up of the following members: privileges and elections, twenty-five members, Dudley Digges, chairman; propositions and grievances, fifty-six members, Thomas Jefferson, chairman; public claims, twenty members, Archibald Cary, chairman; courts of justice, twenty-five members, Joseph Jones, chairman; trade, nineteen members, Thomas Nelson, chairman; religion, forty members, Robert Carter Nicholas, chairman.[129]

There is scarcely room to doubt the English origin of the system of standing legislative committees, the development of which has been traced in the proceedings of the Virginia House of Burgesses. In the House of Commons there existed for many years a system of standing committees, several of which were closely analogous in name and function to some of those employed in the Virginia House of Burgesses. The prototype of the committee of privileges and elections was unquestionably the Commons committee

[127] Journals of the House of Burgesses, 1770–1772, pp. 157, 158.
[128] Ibid., 1773–1776, pp. 75, 76.
[129] Ibid., pp. 177, 178, 179.

of privileges and returns, while the same body had committees for courts of justice, grievances, trade, and religion, having a close connection in name and function with the similar ones of the Virginia Assembly. However, there are very marked differences between the standing committees in these two legislative bodies of the mother-country and her earliest American colony, and these differences must be examined with care.

In his monograph, already cited, Dr. Jameson shows the English origin of the system of standing legislative committees, which has become one of the characteristic features of the American legislative system. While it is not the province of this study to examine the development of the standing committees in Parliament, a résumé of Dr. Jameson's conclusions will help the student to appreciate the differences between the two systems. Beginning with the procedure of the House of Commons in the reign of Queen Elizabeth, he traces the gradual growth of the system through the various Parliaments up to the point of its highest development in the Barebone's Parliament of 1653, when there were a number of select committees bearing a close resemblance to those which we have examined in the system of the House of Burgesses. This is the nearest approach to a system of select standing committees that one notices in the proceedings of the British House of Commons; for Cromwell's Parliament of 1654, which was a more conservative body, soon began to return to the older system of larger and more unwieldy committees, usually committees of the whole, which the second Parliament of the Protectorate completely restored. From the second Parliament of Charles II, in 1661, down to the session of 1832, with scarcely a break, the House of Commons appointed at the beginning of each session a number of its members, usually from one hundred to three hundred, to be a committee of privileges and returns. It also appointed committees of the whole house for religion, grievances, trade, and courts of justice. After the reign of Charles II

the committees of the House of Commons did not develop beyond the point they had reached in his reign. Indeed, they became less and less prominent after this time, and their use gradually declined as the cabinet form of government was developed. The story of the committee system in the British Parliament after the reign of Charles II is one of gradual decline, and one must look to the American colonies to see the full development of the system into an important factor in government.[130]

New England seems to have played little part in the development of the colonial system of standing legislative committees; this system was worked out in the middle and southern colonies, but appeared earliest in Virginia, where, as has been seen, it early reached a high state of usefulness and had an important share in the legislative procedure. Although the history of the standing committee since 1789, or from the date of the formation of our federal government, to the time of the virtual completion of the committee system in its congressional form in the time of Speaker Henry Clay, has been carefully worked out, it was for a long time looked upon as a purely American institution, and a careful study of the committee system prior to 1789 had been neglected until the monograph of Dr. Jameson appeared. This valuable study gives two reasons for this neglect: (1) The system, which had been used at an earlier date in the House of Commons, having become virtually extinct in that body, observers have probably regarded the system of American standing legislative committees as a purely American invention; (2) As it did not figure to any large extent in the colonial legislatures of New England, those American historical writers who were New Englanders (perhaps a majority of all our contributors to American history) have overlooked the fact that the system existed prior to 1789.[131] With an imperfect understanding of this

[130] Jameson, The Origin of the Standing-Committee System, pp. 248–262.

[131] Ibid., pp. 246, 247, 262, 263.

committee system, which played so important a part in the legislative life of the middle and southern colonies, it is not hard to understand why the historians of New England should have attached an undue amount of importance to the local revolutionary committees of Massachusetts. However important was the work performed by these committees in organizing revolutionary sentiment in the various townships of Massachusetts and in binding them together in resistance of the British, it seems a rather vague historical inference to assume that the intercolonial committee of correspondence was an extension of this system of local committees, nor has the writer seen any evidence upon which such a claim can reasonably be based. Indeed, it seems far more probable that the intercolonial committee of correspondence was an adaptation to colonial revolutionary needs of a committee appointed to communicate with the colonial agent—a committee that was well known in the southern and middle colonies. An examination of the Virginia committees of correspondence, which will be made in the next chapter, will give my reasons for looking upon the committee appointed for communicating with the agent as the prototype of the intercolonial committee of 1773.

Before entering upon that subject, however, it is important that the differences between the standing committees in use in the House of Burgesses and the system which since the days of Charles II had been falling into disuse in the British House of Commons should be examined. It will be noticed that though the names and functions of several of the standing committees in the House of Burgesses (privileges and elections, propositions and grievances, religion, courts of justice, and trade) are similar to those of their analogues in the House of Commons, there is a marked difference in the size and nature of the committee. Of the committees in the British legislative body, all save the committee of privileges and returns were committees of the whole house. The committee of privileges was a large, unwieldy body composed of from one hundred to three hun-

dred members, whereas the standing committees of the House of Burgesses were much smaller and more workable than their English analogues. Although the standing legislative committee of the Virginia Assembly was an adaptation of an English mode of procedure, yet the system was not adopted bodily, but was borrowed in part as needs for similar committees arose, and was modified to serve the legislative needs of the new colony. As the House of Burgesses increased in size, and as the problems for legislative solution multiplied with the growth of the colony, committees, modelled after the system of the House of Commons, were modified into the system of workable standing committees whose activities have already been examined.

From the first mention of the committee of elections and privileges in the House of Burgesses to the appearance of the committee of trade is a period of seventy-nine years, and it was more than one hundred years from the appearance of the first of the five traditional standing committees of the House of Commons—the committee for elections—to the appointment by the House of Burgesses of another of the traditional committees, that of religion. It is true, moreover, that the House of Burgesses had appointed at an early date another standing committee, that of public claims, which seems to have had no analogue in the British legislative body. However much the system of the House of Burgesses may have been modelled upon that of the House of Commons—and it was undoubtedly from English precedents that most of our governmental ideas came—the long period of time during which the standing committees were being transplanted to this country and the modifications made in them show unquestionably that the system was not blindly followed, but was adopted as the need for such committees became apparent and modified so as to serve these needs.

CHAPTER II

The Committee of Correspondence

Just as Virginia had been the first of the American colonies to establish an assembly, just as she was the first to develop a system of legislative standing committees, so she was the first to establish a colonial agency in England.[1] It is not within the scope of this study to examine the development of the colonial agencies in England; but since the maintenance of such agencies resulted in the appointment in most of the middle and southern colonies of committees of correspondence for instructing the agents and for communicating with them, and since these committees developed into important standing and recess committees of the general assemblies, which eventually came under the de facto control of the lower houses, it is important that the rise of the committee of correspondence in Virginia and in the southern and middle colonies should be briefly examined.

As early as 1624 Mr. John Pountis, one of the governor's Council, was appointed by the governor and the General Assembly "to solicite the general cause of the country to his Majesty and the counsell," and a special tax of four pounds of tobacco was levied on each male inhabitant of the colony sixteen years of age toward the charges of his voyage to England.[2] In 1674 Secretary Ludwell and Colonel Daniel Parke were appointed to negotiate in England for the colony "concerning late grants made to certain lords patentees," which had greatly alarmed the colonists;[3] and

[1] E. P. Tanner, "Colonial Agencies in England during the Eighteenth Century," in Political Science Quarterly, vol. xvi, pp. 27, 28.

[2] Hening, vol. i, p. 128.

[3] Ibid., vol. ii, pp. 311, 312, 313, 314. These grants were the extensive ones made by Charles II to Culpepper and Arlington.

the negotiations for a new charter which had been pushed by these agents were carried on by Francis Morryson, Thomas Ludwell, and Robert Smith when they were appointed agents for the governor and the General Assembly of Virginia.[4]

Provisions for a permanent agency were made about 1686, when an agent was appointed to represent the colony as a whole; he acted, however, under the direction of the governor and the Council,[5] who were each appointed by the Crown. This kind of agency does not seem to have satisfied the House of Burgesses, who in the conflicts that arose between the legislative and executive branches of the colonial government wished to have an agent in England who would represent them in their disputes, and who should act under their orders. Several times in the disputes between the House of Burgesses and Governors Spottswood and Dinwiddie the House sent special agents to England to present their side of the disputed matters to the king and his Council and to the various boards of the administration. Throughout a long period continued efforts were made by the House of Burgesses to secure an agent who should be responsible to them alone and entirely under their direction and control.[6] This struggle culminated in 1759 with the appointment of Edward Montague as agent to represent the General Assembly, and he was put under the control and direction of a committee of correspondence composed of members from both branches of the legislature. This committee was a joint standing committee of both legislative branches, with authority to act in the recess between the legislative sessions in all matters of business with the agent, and the law required it to lay all correspondence and the record of its proceedings before the General Assembly.[7] In reality this committee was controlled by the House of Burgesses inasmuch as its members constituted a majority

[4] Hening, vol. ii, p. 523.
[5] Dinwiddie Papers, vol. i, p. 37, note.
[6] Journals of the House of Burgesses, 1752–1758, pp. 307, 308, 311, 313, 314, 386, 387, 393, 501, 502, 503.
[7] Hening, vol. vii, pp. 276, 277.

of the committee of correspondence, by means of which the lower branch of the legislature could always govern the agent and shape his instructions.

This was the nearest approach to an agency entirely under control of the House of Burgesses until March, 1773, when a resolution was adopted by that body appointing a committee of correspondence, whose duty should be to maintain an intercolonial correspondence with the other colonies on matters of mutual interest, and to obtain early and authentic intelligence of such acts and resolutions of the British Parliament or proceedings of the administration as might relate to or affect the British colonies in America.[8] In order to obtain this information the committee of correspondence named as its agent in England John Norton, a prominent merchant of London, who accepted the position offered him and became agent. To carry out its ideas of intercolonial correspondence the committee wrote to the other colonies asking that similar steps be taken. The system of intercolonial correspondence developed by this means will be discussed in another chapter.

Edwin P. Tanner, in his monograph on the colonial agencies in England,[9] follows the error made by the editor of the Dinwiddie Papers in stating that from the appointment of Montague as agent for the General Assembly "there were regularly two agents of Virginia, one for the governor and council, another for the house, the salaries of both being provided for by the general assembly as a whole." Now, this is exactly what did not happen; for Abercrombie was retained as agent for the governor and the Council acting in their executive capacity as his advisers, while Montague became the agent, not of the House of Burgesses alone, but of the General Assembly, which was made up of the two legislative branches—the Council, acting in its legislative capacity as the upper house, and the House of Burgesses, the popularly elected branch. A failure to observe the triune nature of the functions of the Council, which

[8] Journals of the House of Burgesses, 1773–1776, pp. 28, 41.
[9] Tanner, p. 47; Dinwiddie Papers, vol. i, p. 37, note.

were executive, legislative, and judicial, may account for some of the false conceptions of Virginia's colonial governmental problems. The act of Assembly of 1759, which named Montague as agent and constituted the joint committee of correspondence from both legislative bodies; the act of Assembly of 1760, explaining this very point of joint legislative control of the agency; the act of Assembly of 1763 for adding sundry persons to the committee of correspondence; and the act of Assembly of 1765, which continued the above acts,—all present conclusive evidence that the agency was under joint control of both Council and Burgesses.[10]

In the southern and in most of the middle colonies the agencies of the general assemblies were controlled through committees of correspondence similar to that appointed by the Virginia legislature. In 1771 the General Assembly of North Carolina appointed Henry Eustace McCulloch as agent to solicit the affairs of the province, and named members from both branches of the legislature to act as a joint committee of correspondence. This committee was composed of two members of the Council and five members of the Assembly.[11] After several special agencies, South Carolina, in 1721, by an act of the General Assembly, appointed Francis Yonge and John Lloyd, members of the Council and of the Commons House respectively, as agents of the colony. They were to act under "such orders as they might receive from the governor, council, and assembly before embarkation, and from the committee of correspondence afterwards."[12] This committee was composed of two members from the Council and five from the Lower House,

[10] Hening, vol. vii, pp. 276, 277, 375, 376, 377, 646, 647; vol. viii, p. 113.

[11] Laws of North Carolina, in State Records of North Carolina, vol. xxiii, p. 854. This committee of correspondence consisted of Lewis Henry DeRosset and Marmaduke Jones, councillors, and Richard Caswell, John Harvey, James Moore, Joseph Montfort, and Robert Howe of the Lower House. Of the members of this committee three—Howe, Caswell, and Harvey—were members of the intercolonial committee of correspondence of 1773.

[12] The Statutes at Large of South Carolina, vol. iii, pp. 146, 147.

any three of whom should constitute a quorum; but an additional ordinance added Richard Beresford and John Barnwell of the Commons House of the General Assembly to the committee and increased the quorum, of whom one at least should be a member of the upper legislative branch.[13] The committee was ordered by act of Assembly to carry on a regular correspondence with the agents, send over the orders of the General Assembly, and give such instructions as it might think proper when that body was not in session. This committee, revived from time to time, lasted until the outbreak of the Revolution, when it was utilized by the Commons House of Assembly for the purpose of intercolonial correspondence.[14]

The development of the agency for Georgia seems to have been very similar to the development of that for South Carolina. In 1762 an act was passed by which William Knox was appointed agent, and a committee of correspondence, consisting of five members of the Council and six members of the Lower House, was constituted to issue instructions and maintain a correspondence with him. This act was to be in force one year from May 1, 1762.[15] This agent and the committee of correspondence were continued by reenactment of the statute in 1763[16] for a period of one year, and in 1764 for a similar period.[17] In 1768 an act of Assembly was passed naming Benjamin Franklin agent for one year from June of that year, and appointing a joint committee of the legislative branches to be a committee of correspondence.[18] Some idea of the importance of this committee may be got from the provision made by the General Assembly for salaries to its clerk and messenger.[19]

[13] The Statutes at Large of South Carolina, vol. iii, p. 157. For an interesting sketch of the development of the colonial agencies of South Carolina see W. R. Smith, South Carolina as a Royal Province, pp. 159–170.

[14] Smith, p. 162, note 3.

[15] The Colonial Records of the State of Georgia, vol. xviii, pp. 481, 482, 483.

[16] Ibid., pp. 536, 537, 538.

[17] Ibid., pp. 580, 581, 582.

[18] Ibid., vol. xix, part i, pp. 12, 13, 14.

[19] Ibid., pp. 129, 485.

Franklin was reappointed agent from June, 1770, to June, 1771; and in November, 1773, he was again appointed agent for the term of one year, the committee of correspondence being again named in each of these acts constituting him agent for the colony.[20] Not only was Franklin reappointed agent, but Grey Elliot was named as an alternate to act for one year, though only in Franklin's absence.[21] On September 10, 1773, the Commons House of Georgia named its speaker, who was also a member of the committee appointed to correspond with the agent, and any five of that committee to carry on a correspondence with the other colonies.[22] Here we see the Georgia Assembly utilizing its standing committee of correspondence just as had been done in South Carolina.

In the middle colonies the New York agency is the most interesting. It came into the hands of the Assembly by 1748, and it is in this colony that the popular house seems to have won a complete victory by gaining exclusive control of the regular agency.[23] On April 16, 1716, Secretary Popple wrote to Governor Hunter of New York on the necessity that each colony should maintain an agent in England, and urged him to use his influence in having an agent appointed for that colony.[24] On October 2 of the same year he wrote to the Board of Trade informing them that the General Assembly had appointed John Chamante agent, and inclosing the act of appointment.[25] In February, 1738, Lieutenant-Governor Clarke wrote to the Board of Trade[26]

[20] Colonial Records of Georgia, vol. xix, pp. 199, 200, 201, 249, 250, 251, 252.

[21] Ibid., pp. 506, 507, 508.

[22] Ibid., vol. xv, pp. 521–527.

[23] Tanner, p. 43; Documents relative to the Colonial History of the State of New York, vol. vi, p. 420, Letter from Governor Clinton to the Lords of Trade.

[24] Documents relative to the Colonial History of New York, vol. v, p. 473, Letter of Secretary William Popple to Governor Hunter.

[25] Ibid., vol. v, pp. 418, 480, Letter from Governor Hunter to the Board of Trade.

[26] Ibid., vol. vi, p. 113. This letter says: "They [the Assembly] did likewise the last Session pass an Act, empowering themselves to appoint an Agent independent of a Governour or the Council;

that the New York Assembly had attempted to pass a bill creating an agency exclusively under the control of the Lower House, but that this bill was so amended by the Council that it was dropped. In 1748 the Assembly appointed an agent, placing him under the direction of a committee of correspondence chosen exclusively from the Lower House. A letter from Governor Clinton to the Board of Trade tells how the measure providing for the agent's salary was attached as a rider to the bill for the support of the governor, so that the executive assent might not be withheld for fear of cutting off the appropriations for the maintenance of the government.[27] In 1765 the New York Assembly was represented at the Stamp Act Congress by its standing committee of correspondence.[28] This is significant; here is the use of a committee of correspondence in a congress, which was looked upon as a meeting of committees from the colonial assemblies, seven years before

But the Council, who were not averse to exclude the Governor, would not be excluded themselves; they therefore made those alterations; but the Assembly would by no means agree to them, So that the bill dropt."

[27] Documents relative to the Colonial History of New York, vol. vi, p. 420, Governor Clinton to the Lords of Trade. Concerning the appointment of the agent Clinton says: "I am still under the necessity of informing Your Lordships that the Assembly of this Province continue to encroach upon the powers of the Crown in the appointment of all their Officers, and have lately (among others) named one Mr. Charles Agent for the Province without my knowledge, privity or consent, otherwise than by telling me, they had made provision for this Gentleman, being recommended by Sir Peter Warren; and as they inserted his Salary in the Bill which gives my support I was obliged either to yield to their method of appointing an Agent, or go without my own Appointments. I find that this Gentleman is to act for the Assembly independent of the Governor & Council, which is to me a very extraordinary proceeding: Therefore I humbly move your Lordships, that you'll be pleased not to suffer Mr. Charles as Agent of this Colony to prefer any Memorial, Representation or Instructions from the Speaker of this Assembly, or from a Committee of said Assembly without my concurrence & assent thereto signified to your Lordships by letter concerning the same." See also Letter from Governor Clinton to the Lords of Trade, dated October 20, 1748, in ibid., vol. vi, p. 425.

[28] Journal of the Stamp Act Congress, in Niles' Register, July 25, 1812. See also H. Niles, Principles and Acts of the Revolution in America, pp. 159–161; B. J. Lossing, Seventeen Hundred and Seventy-six, p. 64.

the appointment of the local committees of correspondence of Massachusetts, which have so often been credited with having been the starting-point of the intercolonial committees of correspondence of 1773, as far as I have been able to determine without any evidence to support the claim.

In New Jersey the most significant feature of the colonial agency is that the order of development seems to be exactly the reverse of what it was in the other colonies. In New Jersey the agency was first established by the House; then a separate agent was employed by the Council; and finally there was a single agent for governor, Council, and Assembly. This was a reversal of the usual order, but through its majority on the committee of correspondence the House never lost practical control.[29] In December, 1769, the committee of correspondence of the New Jersey Assembly wrote to Benjamin Franklin notifying him of his appointment as agent to represent the colony in England, and apprising him of the fact that it had been appointed a committee to correspond with him. This committee was composed of six members of the Assembly; but as the resolutions of the House in which they were constituted a committee were duly attested by the governor, there does not appear to have been any friction with the executive over their appointment.[30] In 1774 the New Jersey committee of correspondence, which had been appointed in response to the call of the Virginia House of Burgesses, selected Franklin, who had been their agent in England, to give them information of acts of the English government that might affect in any way the liberties of America.[31]

The agency in Pennsylvania seems to have received its first impetus from the executive, who in 1718 took the first steps toward establishing it; but his efforts apparently did not result in the establishment of a permanent agency. In 1731 the colony was represented by Ferdinand John Paris,

[29] Tanner, pp. 47, 48.

[30] Archives of the State of New Jersey, first series, vol. x, pp. 135, 136, 137, 138, 139, Letter from New Jersey committee of correspondence to Benjamin Franklin, dated December 7, 1769.

[31] J. Sparks, The Works of Benjamin Franklin, vol. viii, p. 126.

who was agent for a number of years. In 1757 Franklin, who was leader of the opposition to the proprietors in the dispute that had arisen between them and the people of the province over the taxation of the proprietary lands, was sent to England as agent to appeal to the Crown. Although the British government at first refused to receive him, he eventually obtained a hearing and won a victory that was signal and complete. He returned to America in 1760, but was again sent to England in 1765 as assembly agent to secure the repeal of the stamp tax. The author has been unable to find much material bearing on the Pennsylvania agency, possibly because of the fact that the agency was maintained somewhat irregularly; but it is certain that in 1774 the Assembly had a committee of correspondence as a medium of communication with the agent, and it was to this committee that the duties of intercolonial correspondence with the other intercolonial committees of correspondence were finally entrusted. Here again, just as in South Carolina and in Georgia, the already existing committee of correspondence was made use of as a means of securing united action among the colonists.[32]

In the New England colonies the committee of correspondence does not seem to have played a very large part in the communication with the agency. Only in the colony of New Hampshire has it been possible to find any record of a standing committee of correspondence in connection with the colonial agency. On January 18, 1771, a resolution was passed by the New Hampshire Assembly appointing John Wentworth, the speaker, William Parker, and John Sherbourne, with such others as the Council should appoint, to be a committee "to write to the agent for this Province at the Court of Great Britain."[33] This resolution was con-

[32] T. F. Gordon, The History of Pennsylvania, p. 483. Gordon, giving as his authority the "Votes" of the Pennsylvania Assembly, says that the duties of a committee of correspondence intercolonial for communication with the colonial agent were imposed on the standing committee of correspondence, which, in 1774, consisted of the following members of the Assembly: Samuel Miles, Thomas Mifflin, William Rodman, Isaac Pearson, and John Morton.

[33] New Hampshire, Provincial and State Papers, vol. vii, p. 272.

curred in by the Council, which named three of its members to act with the representatives of the House.[34] It may be noted here that when the committee of correspondence of 1773 was appointed by the New Hampshire Assembly, the three representatives who were on the committee named in 1771 became members of the new one.

In none of the other New England colonies has it been possible to find any mention of the committee of correspondence as a medium of communication with the colonial agent. In Rhode Island and Connecticut both the governor and the Council were elected, and they drew their authority from the same source as did the Assembly. Here there would be no need for a committee of correspondence[35] to communicate with the agent; for the governor could be trusted to look out for the best interests of the colony whose people had elected him, and it was to him that the Assembly looked to communicate their instructions to the agent and to maintain a correspondence with him upon matters of interest to the welfare of the colony.[36] In the records of Rhode Island there is no mention of a committee to communicate with the agent, but in 1764 the Assembly of that colony appointed a temporary committee which seems to have had much the same objects in view as did the committee of correspondence appointed by the Assembly of Virginia in 1773. On October 8, 1764, this committee addressed letters to the speakers of the other colonial Houses of Assembly proposing that the sentiments of the various colonies be obtained regarding the rights of the colonies, and suggesting that the colonies unite in a common defence of their liberties. It was also suggested that the agents of the several colonies should unite in aiding in securing these rights.[37] It is not

[34] New Hampshire, Provincial and State Papers, vol. vii, p. 272.

[35] Tanner, p. 49.

[36] Records of the Colony of Rhode Island and Providence Plantations, vol. vi, pp. 368, 484, 486, 491, 571, 593; vol. vii, pp. 27, 28, 29, 30, 31. The act appointing Henry Marchant as joint agent for the colony of Rhode Island names the governor as the medium of communication with the agency.

[37] Sparks, Benjamin Franklin, vol. vii, pp. 264, 265. This letter is in part as follows: "We have been appointed a committee by the

unlikely that the united action of the colonial agents in securing the repeal of the Stamp Act did much to create a spirit of colonial solidarity and helped to pave the way for the acceptance of Virginia's suggestion in March, 1773.

In Massachusetts the instructions to the colonial agent seem usually to have been prepared by a special joint committee appointed for that purpose. These instructions were reported to the General Assembly, were adopted by that body, after any desired amendments had been made, and were sent by the secretary of the colony to the agent.[38] The letters from the agent were probably considered in the same manner by a specially appointed joint committee of the Council and the House of Representatives, and this committee reported the result of its deliberations to the bodies from which its respective members were drawn. These were apparently special committees appointed for a specific purpose, after the performance of which they were discharged, and were not permanent standing committees such as the southern and middle colonies appointed to correspond with their agencies. They were, however, sometimes appointed with power to work in the recess of the General Court, though apparently this was not generally the case.[39]

General Assembly of the colony of Rhode Island to correspond, confer, and consult with any committee or committees that are or shall be appointed by any of the British colonies on the continent, and, in concert with them, to prepare and form such representations of the condition of the colonies, the rights of the inhabitants, and the interests of Great Britain, as connected with them, as may be most likely to be effectual to remove or alleviate the burdens which the colonists at present labor under, and to prevent new ones being added.

"If all the colonies were disposed to enter with spirit into the defence of their liberties; if some method could be hit upon for collecting the sentiments of each colony, and for uniting and forming the substance of them all into one common defence of the whole; and this sent to England, and the several agents directed to join together in pushing and pursuing it there, in the properest and most effectual manner, it might be the most probable method to produce the end aimed at."

[38] The Acts and Resolves, Public and Private, of the Province of Massachusetts Bay, vol. xiv (1747–1752), Appendix ix, pp. 572, 697; vol. xv (1753–1756), Appendix x, pp. 257, 259, 364; vol. xvi (1757–1760), Appendix xi, p. 263.

[39] Ibid., vol. xiv (1747–1752), Appendix ix, p. 697.

In 1770 the Massachusetts House of Representatives appointed Benjamin Franklin as its agent in England, at the same time naming Thomas Cushing, the speaker of the House, and James Otis and Samuel Adams as a committee to communicate with him.[40] Most of the correspondence, however, seems to have been between Franklin and Cushing.[41] This committee for communicating with the agent was an entirely extralegal one, and was so looked upon by Governor Hutchinson. It presents a marked contrast to the committees of correspondence of the southern and middle colonies, of which the Virginia committee of 1759 is a high type; for these committees were constituted by acts of Assembly which had been duly assented to by the executive and had become law. In the main, it appears that the committee of correspondence in connection with the colonial agency did not play either an important or a legally constituted role in any of the New England colonies except New Hampshire.

In passing the act of 1759[42] which created the agency for the General Assembly and named the joint committee of that body as a committee of correspondence, the Virginia House of Burgesses won a victory, though only a partial one. For several sessions of the General Assembly it had endeavored to secure an agent. In 1755 a bill for appointing an agent had been introduced in the House of Burgesses and had passed two readings, but after having been amended in the committee it was defeated after the third reading.[43] In 1756 a bill for appointing an agent was prepared and introduced by the same committee that had prepared the bill at the preceding session. This measure passed the House of Burgesses but was not concurred in by the Council, and so

[40] T. Hutchinson, History of Massachusetts, vol. iii, p. 318; A. H. Smyth, The Writings of Benjamin Franklin, vol. v, pp. 283, 284.

[41] Smyth, Benjamin Franklin, vol. v, pp. 292, 317, 363, 350, 391, 435, 448. Out of the rather extensive correspondence of Franklin while he served as agent of the Massachusetts House of Representatives only two letters seem to have been written to the committee.

[42] Hening, vol. viii, pp. 276, 277.

[43] Journals of the House of Burgesses, 1752–1758, pp. 307, 308, 311, 313, 314.

did not become law.[44] On April 4, 1758, the House of Burgesses again granted leave that a bill for appointing an agent should be introduced, and Charles Carter, Archibald Cary, and Richard Bland were appointed a committee to prepare it. It passed both branches of the legislature, but did not receive the assent of President John Blair of the Council, who was at this time acting governor of the colony.[45] Blair was apparently unwilling to assume the responsibility of assenting to this measure, which created for the legislative branches an agent of their own. In 1759 a bill for creating a colonial agent was passed by both houses, received the assent of Governor Fauquier, and became law.

One of the most significant things about the new agency was the length of the agent's term of office and the tenure of the committee of correspondence. The act of 1759 was to be in force for seven years from its passage, and it was reenacted for a period of five years from the expiration of the original act. This gave the agency permanency; and because the act appointing the agent and creating the committee of correspondence was regularly passed by both legislative branches and assented to by the executive, it had unquestioned legal validity. In none of the other colonies do the colonial agents seem to have been appointed for a term of over two years, though the terms were sometimes renewed through long periods. In the creation of the committee of correspondence and agency of 1759 the House of Burgesses had legalized a committee and also an agent whom through a majority of the committee it might entirely control. In a legal manner the Assembly had obtained an institution which might lend itself readily to aiding the popular branch in any clash between it and the executive. To what extent the work of this committee was carried on into the revolutionary period will be shown in the next chapter.

In the creation of this committee the House of Burgesses had added another important standing committee to the system that had grown to such importance in its procedure.

[44] Journals of the House of Burgesses, 1752–1758, pp. 386, 387, 389, 390, 393.

[45] Ibid., pp. 501, 502, 503.

While nominally a joint legislative committee, so completely was it under the control of the lower branch that it was, in effect, a committee of that body. From a committee, controlled and dominated by the lower branch of the legislature, to a committee with a membership drawn entirely from that body is only a short step; and this step, as we shall see, was taken in the establishment of the committee of correspondence of 1773, on the eve of the American Revolution.

That the House of Burgesses kept in close touch with its committee of correspondence is best shown by the frequency with which its correspondence and proceedings were laid before that body. It was through a careful consideration of its papers that the House of Burgesses was able to know what had been done by the committee during the periods of recess between the sessions of the General Assembly; and after the establishment of the agency the correspondence with the agent came up for careful discussion in nearly every session of the House of Burgesses.

It is, however, in their membership that the close connection of the committee of 1759 and that of 1773 with the standing committees of the House of Burgesses is best evidenced; and strange to say this salient point has received slight attention from those writers who have examined the committee of correspondence.[46] Of the members of the com-

[46] See the two papers by E. I. Miller in the William and Mary College Quarterly, "The Virginia Committee of Correspondence, 1759–1770," vol. xxii, p. 1, and "The Virginia Committee of Correspondence of 1773–1775," vol. xxii, p. 99. In these papers, which were published nearly two years after this study was begun, Mr. Miller has reached very different conclusions from those set forth in this study. Although Mr. Miller has examined some very valuable sources in the preparation of his papers, he has failed to find several important points that a careful search should have clearly shown. He has not noted the continuity of the committee system of the Virginia House of Burgesses; he expresses doubt as to the expiration of the committee for corresponding with the agent, which is clearly evidenced in the Journals of the House of Burgesses and in the laws for appointing the agents; he does not seem to have clearly understood the nature of the agency established by the act of 1759, that neither the agent nor the committee of correspondence was representative of the House of Burgesses alone. It was clearly and specifically stated in the act of 1759 that this agent was to represent the General Assembly, and the committee of correspondence was a joint legislative committee from both House and Council.

mittee of 1759 those from the House of Burgesses were John Robinson, Peyton Randolph, Charles Carter, Richard Bland, Landon Carter, Benjamin Waller, George Wythe, and Robert Carter Nicholas. An examination of the journals of the House of Burgesses for a period of ten years prior to their appointment to this committee will show that most of these men had served as chairman of one or more of the prominent standing committees, while all of them had served on some of these committees. Surely it is not too much to infer that they had demonstrated in their committee service their ability and fitness to be appointed to the new committee, for which the Burgesses had contended so long, and that the qualities for work and leadership that had been shown by them on the standing committees were factors in their appointment to the membership of the committee for corresponding with the newly appointed agent. It seems as unlikely that the system of standing committees should have had no effect on the committee of correspondence of 1759 as that the committee of 1759 should have been utterly forgotten in the creation of that of 1773. The continuity of personnel would indicate an institutional connection between these two committees of correspondence and between them and the great system of standing committees of the body from which they were appointed.

Four of the members of the committee of correspondence of 1773—Peyton Randolph, Robert Carter Nicholas, Richard Bland, and Dudley Digges—had served on the committee for communicating with the agent, Digges having been added to the committee in 1763. Of these, Peyton Randolph, the speaker of the House at the time of the appointment of the committee in 1773, had been attorney-general of the colony, special agent to England in 1753, and had served as chairman of the committee of privileges and elections (1758, 1761), as chairman of the committee of propositions and grievances (1762, 1764), and as a member of several of the standing committees. Robert Carter Nicholas, at that time treasurer of the colony, had served as chair-

man of the standing committee of religion from the time of its creation in 1769, and as a member of the committee of privileges and elections and of propositions and grievances. Richard Bland had been chairman of the committee of public claims (1758, 1761), chairman of the committee of privileges and elections (1766, 1769, 1772), and had served as a member of the committees for religion and for trade; and Dudley Digges had served as a member of the committee of religion and of the committee for privileges and elections, becoming chairman of the latter in 1775.

Of the other members of the committee of correspondence of 1773, Richard Henry Lee had served as chairman of the committee for courts of justice (1766, 1769); Benjamin Harrison, as chairman of the committee of trade (1758, 1761, 1762, 1764, 1766, 1769, 1772), and as a member of the committees of religion, privileges and elections, and propositions and grievances, and Edmund Pendleton, as chairman of the committee for courts of justice (1762, 1764) and of privileges and elections (1766, 1769, 1772). Patrick Henry, though he had been a member of the Assembly only since 1765, was a member of the committees of religion, propositions and grievances, and privileges and elections; Archibald Cary had served as chairman of the committee of public claims (1762, 1764, 1766, 1769, 1772) and as a member of the committees of religion, privileges and elections, and propositions and grievances; Thomas Jefferson, who at the time of his appointment to this committee of correspondence of 1773 was one of the youngest members of the House of Burgesses, was a member of the committee of propositions and grievances, to the chairmanship of which he rose in 1775. Only one member of the committee, Dabney Carr, seems not to have served on any of the standing committees. He was a new member in the session of 1773, and died before another session of the Assembly. Carr was chosen by the authors of the resolutions of March 12, 1773, to move them in the House of Burgesses, at the request of his brother-in-law, Thomas Jefferson, who wished to give the new member an opportunity to display his talents.

It was through their service on the standing committees of the House of Burgesses that these members gained a thorough training in legislative procedure and developed a capacity for constructive statesmanship that made them ready to take the lead in the stormy period soon to follow. Upon no other basis can the leadership of Virginians in the period from 1773 to 1787 be satisfactorily explained. These and other members of the House of Burgesses, coming from a popular assembly which for many years had been the most truly representative body on the continent, were close enough to their constituents to know just how far the people of the colony were prepared to resist British encroachments and to what extent they could safely assume leadership. Moreover, their legislative training and experience gave the Virginia delegates in the first Continental Congress a leadership in that body which Virginia was to retain for many years.

It was the thoroughly representative character of the Virginia House of Burgesses that made its members, whether they were sitting as the Assembly or as a convention of delegates, feel that they were in deed and in truth the representatives of their people, and that these people would stand behind them in any action they might take in the representative capacity. In Virginia the problem was not to build up a unified sentiment among the people by town-meetings and revolutionary propaganda, but to determine what measures must be chosen to protect the legislative rights of the colony. So thoroughly representative was the House of Burgesses that its action seems to have reflected almost perfectly the sentiment of the vast majority of the colonists. It was this consciousness of the fact that they would be supported by the people, whose representatives they were, that gave to its members their readiness to take decisive action in times of crisis; while the knowledge on the part of the electors that their representatives were close enough to the people from whom they were chosen to follow those measures best fitted for the preservation of popular

government gave to the people a confidence in their representatives. These conditions seem to have interacted. The confidence of the people in their representatives made the latter ready to take the initiative in any matter of importance, while the fearless activities of the Burgesses engendered a spirit of trust and confidence in the Virginia electorate. This made the House of Burgesses so responsive to public sentiment that, after the Stamp Act agitation in 1765, even such a conservative as Edmund Pendleton differed from such radicals as Patrick Henry and the group that followed his leadership rather as regarded methods and details than on essential principles.

Thus, throughout the revolutionary period one finds a much greater unity of sentiment and a far greater readiness to take the initiative among the Virginia representatives than among those of any other colony. In Virginia public sentiment was probably as unified in the revolutionary period as is ever the case in a democracy when any great radical change is proposed. Certainly in her southern neighbors, Georgia and the two Carolinas, the Tory element was much larger and more troublesome and aggressive, and the few Tories in Virginia were in no measure comparable to the large Loyalist element of New York, New Jersey, and Pennsylvania, an influential part of the population of those colonies. In New England, sentiment does not seem to have been united, nor were her leaders as ready for action as those in the Old Dominion. In many of the colonies, even in Massachusetts, the leader of the more northern colonies, the inhabitants seem not to have been so ready to take decided action as were the people in Virginia, the leader of the more southern provinces. In Massachusetts and in several of the other colonies there were many who looked with distrust on Samuel Adams, who led the more democratic part of the Massachusetts population, for Adams was a man more famous for his talents as a political agitator than for his ability as a constructive leader; and the richer trading class, much of whose prosperity was gen-

erally supposed to be due to an evasion of the revenue laws and whose leader was John Hancock, does not seem to have been followed with great unanimity by a large number of Americans, who felt that these rich tradesmen had "axes to grind" in their opposition to Great Britain. This distrust of the Massachusetts leaders, especially evident in the meetings of the early Continental Congresses, made it necessary that the initiative in the most important matters should come from the Virginia delegates, who had behind them the united sentiment of their colony, and whose prominence and important position in the affairs of their own province made their leadership acceptable to the colonies as a whole. Especially in the drafting and adoption of the Declaration of Independence was the ability of the Virginia delegates to take the initiative of the utmost importance. Nor did the Virginia delegates assume this responsibility by taking unwarranted action; the burgesses of the colony, met in convention, had instructed the delegation to move and support such a declaration, and Richard Henry Lee, in accordance with these instructions, made the motion that paved the way for this great step toward independence.

The almost frictionless transition from colony to commonwealth testifies to the unity of sentiment in Virginia, so far as the inhabitants of the colony and their popularly chosen branch of the legislature were concerned. With the breakdown of the royal executive power, no revolutionary change came over the legislative branch of the colonial government, and no cataclysm separated the House of Burgesses from its successor, the Virginia legislature. The legislative transition was so gradual that it might be termed evolutionary rather than revolutionary. No great change in the personnel or in the procedure of the House of Burgesses marks this transition. Before it was known with any degree of certainty by the people of the colony to what extent the arbitrary actions of Dunmore would be carried, but while there were deep suspicions that he would continue to dissolve the Assembly unless that body should put

the selfish and short-sighted policies of the British Parliament before the interests of the colony itself, the burgesses were elected in each county, not by any revolutionary or unusual procedure, but by the duly qualified electors voting in accordance with the laws that had long governed elections in the colony. But the members of the House of Burgesses were authorized by their constituents, in the event of the governor's refusal to allow them to sit as an assembly, or upon any sudden dissolution after they had come together, to meet as a convention to consider the legislative needs of the colony. To the student of history, who looks beneath legal forms for the facts which they so often obscure, the action of Lord Dunmore, in his irritating policy of dissolution and prorogation of the Virginia Assembly, will seem far more revolutionary than the action of the burgesses in coming together as a "convention" after his dissolution of the Assembly had clearly manifested his intention of thwarting any expression of the general will.

An examination of the proceedings of the Virginia House of Burgesses will convince the unbiased student of history that, whatever charges might be brought against the members of that body, they could not be justly accused either of unfaithfulness or of indifference to the interests of their constituents.[47] There is not the shadow of a doubt that they were the representatives of the Virginia people in a far more real way than the Parliament was at that time representative of the British people. The House of Burgesses

[47] The Official Letters of Alexander Spottswood, in Collections of the Virginia Historical Society, vol. ii, p. i. Cited as Spottswood Letters. In complaining of the Burgesses elected, the governor says: "For the mobb of this country having tryed their own strength in the late election, and finding themselves able to carry whom they please, have generally chosen representatives of their own class, who as their principal Recommendation, have declared their resolution to raise no tax on the people, let the occasion be what it will. This is owing to a defect in the Constitution, which allows every one, tho' but just out of the condition of a servant, and that can purchase but half an acre of land, an equal vote with the man of best Estate in the country." Dinwiddie says: "I am sorry to find them [the Burgesses] very much in a Republican way of thinking, and indeed they do not act in a proper constitutional way, but making encroachments on the prerogatives of the crown" (vol. i, p. 100).

during the period of the two decades preceding the actual outbreak of the Revolution, whether sitting as a colonial assembly or as a convention of delegates of the people, was a body clearly representative of its constituents. Indeed, there seems to have been no doubt in any of their proceedings from 1765 to 1776 that their action either as a legislative body or as a convention would be acquiesced in and supported by the people whose representatives they were. Revolutionary only in so far as parliamentary encroachment upon the jealously guarded realm of local self-government threw them on the defensive, the members of the House of Burgesses were regularly elected representatives, just as legally chosen and not a whit more revolutionary in 1776, at the climax of parliamentary aggression, than in 1765, when their bitter resistance of the Stamp Act marked their opposition to the changes in the English colonial policy in its incipiency.

As we have already seen, the General Assembly of Virginia was composed of two houses, the Council and the House of Burgesses. The former was appointed by the Crown, usually from a number of persons suggested by the governor, while the latter was composed of representatives elected by the freeholders of the colony. But while the Council had legislative functions as the upper house of the General Assembly, it had in addition executive duties as an advisor to the governor and judicial functions as the general court of the colony. The House of Burgesses, being only a legislative body and directly responsible to the people who elected it, was looked to by them as the maker of their laws and the guardian of their rights. Any fight made against the encroachments of Parliament would naturally be waged by the House of Burgesses. It was in this body that most of the colonial legislation originated, and as the volume of legislative work increased, its system of legislative committees was developed and perfected. All legislation customarily originated in the Lower House, and money bills had to be initiated there, though a bill might be

introduced in the Upper House if no appropriation were made. Moreover, a bill, after it had passed both branches of the legislature, had to receive the assent of the governor before it became a law, but even then it might, under certain conditions, be disallowed by the Crown. It was to the Lower House, as their own elective body, that the people of the colony looked for representation; it was here that any encroachment by the prerogative upon the charter rights of the colony would naturally be opposed.

In order to determine with any degree of accuracy how representative a body the House of Burgesses was, it will be necessary to examine both the qualifications of the electors and the laws governing the election of its members. If it is found that the House of Burgesses was a body representative of the mass of people of the colony, it will be safe to assume that the system of committees employed by it was used to further the best interests of the colony at large. We find that as early as 1619, when the first Assembly was called together, the House of Burgesses was an elective body, whose members were chosen by the people.[48] From this time up to 1670, when a law was passed restricting it, the basis of suffrage was universal to freemen. In October, 1670, it was enacted that "none but freeholders and housekeepers who only are answerable to the publique for the levies shall hereafter have a voice in the election of any burgesses in this country."[49]

The acts of Assembly known as "Bacon's Laws," passed by a revolutionary House of Burgesses in the year 1676, contain an act repealing that just mentioned and restoring the suffrage to its former basis; that is, all freemen were to vote as formerly, together with all freeholders and housekeepers.[50] In 1677, after the suppression of Bacon's rebellion, Charles II issued a series of instructions to Governor Berkeley, one article of which ordered him to declare

[48] W. W. Henry, Patrick Henry; Life, Correspondence and Speeches, vol. i, p. 29.
[49] Hening, vol. ii, p. 280.
[50] Ibid., vol. iii, pp. 356, 357.

all laws passed under Bacon's influence "voyd and null."[51] In accordance with these instructions, the General Assembly in April, 1699, some time after the laws passed under Bacon's influence had been declared of no effect, enacted an election law providing that only freeholders should vote for burgesses. No woman, sole or covert, infant, or Popish recusant was allowed to vote; and the penalty for any person who voted in an election, when not a qualified voter, was a fine of five hundred pounds of tobacco for each offence.[52]

The General Assembly in 1762 passed an elaborate law entitled, "An Act for directing and better regulating the elections of Burgesses, for settling their privileges, and for ascertaining their allowances."[53] This statute was a carefully drawn piece of legislation in which every detail of the method of calling and holding an election was set forth with great explicitness. Every safeguard that the law could throw around the election of burgesses was provided. The qualification for suffrage was that every freeholder could vote who did not fall under one of these classes: woman, sole or covert; infant under the age of twenty-one; recusant, convict, or any person convicted in Great Britain or Ireland during the time for which he was transported; free negro, mulatto, or Indian. It was provided that every person who had an

estate of freehold, for his own life, or the life of another, or other greater estate, in at least fifty acres of land, if no settlement be made upon it, or twenty-five acres, with a plantation and house thereon at least twelve feet square, in his possession, or in the possession of his tenant or tenants, for term of years, at will or sufferance, in the same county where he gives such vote; and any person having such estate in fifty acres of land in one tract uninhabited, lying in two or more counties, shall have a right to vote in that county only wherein the greater quantity of the said land lies, although the same shall not amount to fifty acres in either county; and every person possessed of twenty-five acres, with a plantation and house thereon as aforesaid, lying in two or more counties, shall have a right to vote in that county only where the

[51] Hening, vol. iii, pp. 424, 425.
[52] Ibid., p. 172.
[53] Ibid., vol. vii, pp. 517–530.

house shall be; and every person possessed of a lot, or part of a lot, in any city or town, established by act of assembly, with a house thereon at least twelve feet square, shall have a right to vote at such election.

This act of 1762 remained in force until 1769, when the November session of the Assembly passed an act to take its place.[54] The act of 1769 was substantially the same as the earlier statute of 1762, differing only in minor details. The length of tenure of land, the possession of which carried with it the right of suffrage, was reduced from one year to six months, this change of tenure requiring changes in the form of oaths given by freeholders at the taking of a poll. This act also contained a more strict provision against bribery and corrupt practices in elections.

Having seen that during most of the colonial period the suffrage in Virginia was limited to freeholders, and that the provisions of land tenure constituting freeholding were not excessive for a new country, where land was cheap and plentiful, we perceive that the basis of suffrage in Virginia was much wider than it was in England at a corresponding period. It is also evident that, whatever defects the Virginia system of representation may have shown, its basis was more uniform and it was better regulated by law than was the representation in the House of Commons. While Parliament was controlled by corrupt and vicious methods, by flagrant and notorious bribery, the House of Burgesses through its committee of privileges and elections was enforcing strict and uniform election laws. Only in the decayed town of Jamestown, which was, about the time that we are considering, a "pocket-borough" in the hands of the Travis and Ambler families, do we find any approach to the "rotten borough" so common in England at this time.[55]

Having seen that the basis of suffrage was much wider than in England, let us now examine the proportion of those having the right of suffrage who appear to have exercised

[54] Hening, vol. viii, p. 306.

[55] H. R. McIlwaine, Introduction to Journals of the House of Burgesses, 1758–1761, p. viii, note 4.

the privilege. Campbell estimates the population of Virginia in 1756 at approximately 293,000, of whom 120,000 were negroes.[56] This estimate would leave the white population considerably larger than the black, about 173,000 in round numbers. The question in determining the representation of the people of the colony in the House of Burgesses is what percentage of the white population actually voted for members of the Assembly. Dr. McKinley, basing his figures on a series of colonial election returns worked up by President Lyon G. Tyler,[57] states that almost nine per cent of the white population participated in the elections of the counties examined, or that one white person in eleven not only had the privilege of voting, but actually did perform that duty. Since the counties, returns of which are given by Dr. Tyler, are all older counties of Eastern Virginia, where there was much large landed property, it is probable that returns of the upper counties, where the holdings were smaller and the people more democratic, would show an appreciably larger proportion of the population voting than in the Tidewater section. However, this statement is only a conjecture, as I have not been able to find the returns from any of the western counties for this period. A comparison of these figures presented by Dr. Tyler with results of work done on Massachusetts returns for a somewhat later period by Dr. Jameson[58] and with the poll lists of

[56] Campbell, p. 494.

[57] L. G. Tyler, "Virginians Voting in the Colonial Period," in William and Mary College Quarterly, vol. vi, pp. 7–13. From this monograph the following figures are tabulated:—

Election in counties of	Year	Percentage Voting
Elizabeth City	1758	8
King George	1758	10
Prince William	1741	7½
Westmoreland	1741	7½
Westmoreland	1748	10
Westmoreland	1752	8½
Essex	1761	10
Essex	1765	10
Average		8.937

[58] J. F. Jameson, "Did the Fathers Vote?" in New England Magazine, January, 1890, pp. 484–490.

New York City given by Mr. McKinley[59] shows that the elective franchise was more widely exercised, and probably more widely conferred, in Virginia than in the middle and New England colonies.

Elected by so wide an exercise of the privilege of suffrage, in elections around which the law threw every safeguard, it is not strange that the Virginia House of Burgesses should have been a body very representative of the interests of its constituency. Nor do we wonder that, within its hall, there should have developed some of the most powerful champions of popular sovereignty that the world has known. In this legislative assembly such men as Patrick Henry, Richard Henry Lee, Thomas Jefferson, Richard Bland, George Mason, and George Wythe gained their legislative experience, and formed those ideas of democracy that made them leaders in the advance guard of those who contended for constitutional government and representative institutions. When one looks at the roll of great Americans whose training in politics and government was received in the House of Burgesses, he feels that it was something more than accident or coincidence which made that body the training school of statesmen. Its representative character, the high average of its membership, and the system of local self-government which it had built up, its well-regulated committee system of legislative procedure,—all of these help to explain the number of great men who went from its hall into the larger leadership of State and Nation.

[59] A. E. McKinley, The Suffrage Franchise in the Thirteen English Colonies in America, p. 217.

CHAPTER III

A Comparative Study of the Committee of Correspondence of 1773 and the Earlier Committee of Correspondence of 1759

On March 12, 1773, the Virginia House of Burgesses appointed a committee of correspondence consisting of the speaker and ten of the leading members of that body. The reasons for the appointment of such a committee are given in the resolutions passed unanimously by the House of Burgesses sitting as a committee of the whole house upon the state of the colony.[1] The preamble declared that the minds of His Majesty's subjects in the colony had been much disturbed by various rumors and reports of proceedings tending to deprive them of their ancient legal and constitutional rights, and that the affairs of the colony were frequently connected with those of Great Britain and of the neighboring colonies, which rendered a communication of sentiments necessary; in order, therefore, to remove the uneasiness, to quiet the minds of the people, and to serve other good purposes mentioned, it was resolved that a standing committee of correspondence and inquiry should be appointed.[2]

This committee consisted of the following members: Peyton Randolph, the speaker of the House of Burgesses, Robert Carter Nicholas, the treasurer of the colony, Richard Bland, Richard Henry Lee, Benjamin Harrison, Edmund Pendleton, Patrick Henry, Dudley Digges, Dabney Carr, Archibald Cary, and Thomas Jefferson. Six of these were determined upon as a quorum, and it was stated that the business of the committee should be to "obtain the most early and authentic Intelligence of all such Acts and Resolutions of the British Parliament, or Proceedings of Admin-

[1] Journals of the House of Burgesses, 1773–1776, p. 28.
[2] Ibid., pp. 23, 41.

istration, as may relate to or affect the British Colonies in America; and to keep up and maintain a Correspondence and Communication with our Sister Colonies, respecting these important Considerations, and the result of such their proceedings, from Time to Time, to lay before this House."

It was further resolved that the committee should be instructed to inform itself at the earliest opportunity "of the principles and Authority, on which was constituted a Court of Inquiry, said to have been lately held in Rhode Island, with Powers to transmit Persons, accused of Offences committed in America, to places beyond the Seas, to be tried," and that "the Speaker of this House do transmit to the Speakers of the different Assemblies on this Continent Copies of the said Resolutions and desire that they will lay them before their respective Assemblies, and request them, to appoint some Person or Persons, of their respective Bodies, to communicate, from Time to Time, with the said Committee."[3]

This committee, it will at once be noticed, was a legislative committee, appointed by the House of Burgesses, the popularly elected branch of the Virginia Assembly, from its own membership. Furthermore, it was a standing legislative committee with power to act in the recess between the sessions of Assembly, but it was amenable to the body by which it was appointed, and its proceedings and correspondence had to be laid before the Burgesses at each session. Twelve of the British-American colonies responded to Virginia's suggestion, and each of them followed her example by appointing a committee of correspondence. In each case the committee was appointed by the Lower House, and in each the speaker was a member of the committee. Each of the colonial legislative bodies so responding required the committee of correspondence to lay proceedings and correspondence before it from time to time, and the duties assigned the committee were the same as those assigned the Virginia committee. This meant that the committee, in

[3] Journals of the House of Burgesses, 1773–1776, pp. 28, 41.

whatever action it might take, must voice the wishes of the majority of the body by which it was appointed and to which it was responsible for what it might undertake. Such a chain of committees of correspondence, appointed by the assemblies and amenable to them, could be revolutionary only in so far as the bodies to which they belonged were revolutionary. However irregular the action of these committees may have seemed to the British government, the first measures taken by them in opposition to the British encroachments on the rights, or supposed rights, of the colonial legislatures can hardly with justice be called revolutionary. Indeed, the measures urged by the committees looked forward to a protection of colonial liberties by a closer union with the mother-country,—a constitutional union, which would guarantee their legislative functions to the colonial assemblies. Nevertheless, we shall see how it evolved as one of the chief factors in the making of the Continental Congress.

The resolutions of the Virginia House of Burgesses appointing the committee of correspondence show that the work of the committee lay in two directions. The committee was instructed to obtain the earliest and most authentic news of the acts of the British Parliament or proceedings of the administration relating to or affecting the British colonies in America. This was its first function; the other function was to keep up and maintain correspondence and communication with the other American colonies.[4] These two functions were of the utmost importance; for in what was taking place in the home government beyond the sea lay the danger to American legislative freedom, while concerted action on the part of the colonial assemblies might guarantee the cherished right of internal taxation which they had so long enjoyed. Public sentiment in the colonies had not ripened yet for a separation from Great Britain, and the colonies saw in united action a program which they hoped would work out a constitutional union, and which, while it

[4] Journals of the House of Burgesses, 1773–1776, p. 28.

protected their rights, would weld them closer to the mother-country. Information of what was happening in England was important to the colonies; so too was authentic knowledge of the occurrences in the colonies themselves. It was such information from England and such knowledge of colonial affairs that the committee of correspondence was created to obtain and to utilize.

The intercolonial committees of correspondence, as standing legislative committees appointed by the lower houses of assembly of the respective colonies, can hardly be considered extralegal. The Virginia committee of March, 1773, which served as a model for the other intercolonial committees of correspondence, was but another standing committee added to the system already in use in the House of Burgesses. These standing committees of privileges and elections, propositions and grievances, courts of justice, public claims, trade, and religion had by this time become a permanent part of the legislative machinery of the House of Burgesses, and most of the routine work of that body was performed by them.[5]

For the institutional prototype of the intercolonial committee of correspondence, as well as for the principle underlying the committee system, one must look back of the local revolutionary committee of correspondence of Massachusetts, which Dr. Edward D. Collins has credited with being the model for our committee system and the germ of our government. In speaking of this Massachusetts committee Dr. Collins says: "It was a mother of committees, and these committees, local and intercolonial, worked up the war. It initiated measures, and its activities comprehended legislative, executive, and judicial functions. It was the germ of a government."[6] This statement does not seem to be justified by the evidence introduced.

The functions of the intercolonial committee of corre-

[5] Jameson, The Origin of the Standing Committee System, p. 248.
[6] E. D. Collins, "Committees of Correspondence of the American Revolution," in Annual Report of the American Historical Association, 1901, vol. 1, p. 247.

spondence of 1773, as far as its duties in obtaining information from England regarding legislation and acts of administration touching the American colonies were concerned, were nearly identical with the work performed by the Virginia committee of 1759. This was a joint standing committee of the two houses of Assembly, created by them to correspond with the agent of the colony in England on all matters of interest to the colony. Although the governor and the Council, the appointive officers of the Virginia government, had been represented by an agent in England before 1759, the popularly elected branch of the Assembly up to this time had no representative there.

During the administration of Governor Dinwiddie a dispute had arisen between the House of Burgesses and the governor regarding the "Pistole Fee;" and the Burgesses, feeling that Mr. Abercrombie,[7] the agent for the governor and the Council, would represent the interests of those who employed him and not the interests of the colony as voiced by its elective body, had sent a special agent to England to represent them in this controversy. This had been a great inconvenience and expense to the colony, and had created a desire among the members of the Assembly for an agent who should represent the legislature of the colony in all matters that might come up before the Parliament or the administrative boards in England.

The Agent's Act was passed by the House of Burgesses on March 28, 1759, after having been amended and agreed to by the Council; and on April 5 it received the assent of the governor and became a law.[8] By the provisions of this act Edward Montague, of the Middle Temple, was appointed the agent of the colony, to be at all times

> under the direction of the honorable William Nelson, Thomas Nelson, Philip Grymes, and Peter Randolph, esquires [of the Council];

[7] James Abercrombie, agent in England of the governor and the Council of Virginia, was a lawyer, and served as judge advocate to General St. Clair in 1746. He was agent for North Carolina from 1748 to 1758, and was also a private agent of Governor Glenn of South Carolina.

[8] Journals of the House of Burgesses, 1758–1761, pp. 109, 110, 118.

John Robinson, Peyton Randolph, Charles Carter, Richard Bland, Landon Carter, Benjamin Waller, George Wythe, and Robert Carter Nicholas, esquires [of the House of Burgesses], who are hereby declared to be a committee of correspondence, to transmit such matters and things to him as shall be committed to their charge by the General Assembly; and to receive from him information and intelligence of his proceedings, as well in such cases as shall be to him intrusted by the said committee, or the major part of them, as in every other matter and thing that shall come to his knowledge, that may either affect or be for the interest of this colony.[9]

It was further provided that this committee should, when required by the Assembly, lay before that body "copies of all such letters and instructions as shall be by them sent to such agent, and also the originals of all letters by them received from the said agent." Only a majority of the members were authorized to act as a committee, and any member or members less than a majority who should presume to enter into a correspondence with the agent repugnant to the letters or instructions sent him by the majority should be guilty of a misdemeanor and liable to the censure of the General Assembly. The remaining clause of the act provided for the appointment of a successor in case the present agent should die or be for any reason unable to serve; fixed the salary of the agent at five hundred pounds sterling per annum; and specified that the act should continue and be in force for a period of seven years from its passage.[10]

The similarity of this committee to the one appointed by the House of Burgesses in 1773 is at once apparent. Each was a standing legislative committee. Each possessed the power to exercise its proper functions in the recess between the sessions of the legislature. The proceedings of each had to be laid before the body by which it was appointed and to which it was amenable. In function and in manner of appointment the one bears a close resemblance to the other. An examination of their personnel reveals the fact that three of the original committee of 1759—Peyton Randolph, Richard Bland, and Robert Carter Nicholas—were members of the committee of 1773, while Dudley Digges,

[9] Hening, vol. vii, p. 276.
[10] Ibid., pp. 276–277.

also a member of this committee, had been added to the earlier committee in 1763.[11]

To neither of these committees has the local revolutionary committee of correspondence, of which the first was appointed in Massachusetts in 1772, any points of striking resemblance, if we except the fact that the object of all three was the writing of letters for a particular purpose. These Massachusetts committees were purely local, and, important as was their work in advancing the revolutionary movement in the colony of Massachusetts itself, their activities were intracolonial rather than intercolonial. They appear to be the narrowing down of the principle of correspondence to meet local needs and effectively to unify public opinion within the colony itself. Dr. Collins's attempt to make these committees the parent of the wider and more far-reaching movement seems a confusion of ideas. Each of the colonies had two tasks to perform in order to enable the American provinces successfully to uphold their rights against the encroachments of Crown and Parliament. One task was to work out unity of sentiment among the people of the colony itself—the intracolonial problem, hard or easy of solution according to the political organization and the feelings of the population on matters of colonial rights. The other task, far more difficult on account of the sectional feelings and different economic interests of the various colonies, was the problem of intercolonial relations—the working out of a union among the colonies themselves.

The method of securing united action within the colony itself is a matter for which separate research must be made in the records of each colony if any definite and satisfactory results are to be obtained. In each of the colonies different problems were constantly arising for solution; in none of them was the situation identical; and in most of them widely dissimilar conditions prevailed. Curiously enough, Dr. Collins, after distinguishing between the revolutionary and the intercolonial committees of correspond-

[11] Journals of the House of Burgesses, 1761–1765, pp. 193–196; Hening, vol. vii, pp. 646–647.

ence, almost immediately disregards this distinction and makes the revolutionary committee the starting-point for a committee of an entirely different nature.

The chief difference between the Virginia committee of 1579 and that of 1773 is that the former was a joint committee chosen from both houses of the General Assembly, while the latter was a committee of the House of Burgesses alone. The fact that the committee of 1773 was thus chosen indicates that in the period of fourteen years since the creation of the first committee the Burgesses had realized that a committee of correspondence under their sole direction would work far more effectively than a joint committee from both legislative branches. During this period England's colonial policy had been almost completely changed in character. From a loose and ineffective supervision of colonial affairs, almost laissez-faire in character, there had developed a policy of close and intimate regulation by the home government through the medium of its Board of Trade. Since 1763 the new imperial policy of the British government had been at work, and the result of the attempts of Parliament to legislate for the colonies in local matters, especially in the field of internal taxation, had been to create in their legislative bodies a desire to protect in every possible way the rights that they had so long exercised. In protecting these cherished rights the committee of correspondence was a most effective weapon.

While the committee of 1759 was a joint committee, it was virtually under the control of the House of Burgesses; for not only did the latter have a majority of the members on the committee, but an examination of the proceedings and correspondence during the period from 1759 to 1770, most of which have come down to us,[12] shows that the select committees which prepared the letters to the agent were

[12] The proceedings of the committee of correspondence, 1759–1770, are preserved in the Archives Department of the Virginia State Library. They have been published in the Virginia Magazine of History and Biography, vol. ix, pp. 353–368; vol. x, pp. 337–356; vol. xi, pp. 1–25, 131–143, 343–354; vol. xii, pp. 1–14, 157–169.

in nearly every case composed entirely of the burgess members of the committee.[13] In the cases of which we have record where this select committee contained members from both bodies we find that in one instance an equal number from the Council and the Burgesses was appointed,[14] and in the others a majority of the burgess members.[15]

Most of the work of the earlier committee consisted in instructing the colonial agent, Edward Montague, as to what legislation of the colony he should support before the king, the Parliament, or the Board of Trade. The committee usually furnished the agent with reasons to be used by him in his arguments before the king or either of these bodies whenever any laws of the colony were called into question. Often, as in the case of the acts of 1755 and 1758 for allowing the inhabitants to discharge their tobacco debts in money,[16] a full and complete history of the circumstances surrounding the passage of the acts under discussion was given.[17] The question raised by the opposition to the Two Penny Act was the right of the Virginia Assembly to pass temporary legislation. Montague was ordered to defend the act in question against the attacks of the clergy, and in any proceedings that should be carried to England in a suit which had been instituted by the Reverend John Camm against the vestry of York Hampton Parish to recover from them the full market value of his salary, he was to employ counsel on behalf of the vestries or collectors who had been working under the provisions of this act.

While Mr. Camm's suit was pending, other ministers sued their vestries without much success. Of these cases the most celebrated was the "Parson's Cause," tried in the county court of Hanover in December, 1763. It was at this

[13] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. x, p. 339; vol. xi, pp. 10, 22, 132; vol. ix, pp. 356–357.

[14] Ibid., vol. x, p. 339.

[15] Ibid., vol. xi, pp. 132, 133.

[16] Hening, vol. vi, p. 568; vol. vii, pp. 240–241. This act of 1758 was popularly known as "The Two Penny Act."

[17] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. x, pp. 347–356.

time that Patrick Henry, as counsel for the defendants, first came before the public eye in a speech in which he boldly and eloquently stated the rights of the people. Henry voiced popular rights more strongly than they had been before publicly stated; and from this advanced attitude he never receded, but assumed a position which in 1765 placed him at the head of the resistance to parliamentary encroachment, and made him the recognized leader of the movement for colonial legislative rights.[18] Only once had a stand anything like so advanced been taken, namely, the position maintained by James Otis in his argument against the writs of assistance; but Otis had receded from this position in 1765, when he pronounced treasonable the Virginia resolutions against the Stamp Act, of which Patrick Henry was the author.[19] When the Stamp Act Congress met, Otis hesitated to sign the address to the king and the Parliament, and did so only under the inducement of Thomas Lynch of the South Carolina delegation.[20]

The act for appointing the agent was objected to by the Board of Trade, which threatened to have it disallowed unless certain alterations desired by the Board were made by the Assembly. The objection to the act was that the term "Assembly" was used where the Board of Trade thought "General Assembly" should be used, as will be seen from this extract from a letter from Governor Fauquier to the Lords of Trade:

> In relation to the Agent's Act, I am fully convinced that it was not the design of any part of the Legislature to g[i]ve the Committee of Correspondence any powers for which they should not be accountable to the General Assembly, so that the alteration desired by your Lordsps will not as I apprehend meet with the least difficulty; whether the word General was left out by mistake, or whether the common acceptation of the words, Assemby and General Assembly, having the same import here, occasioned this, I know not,

[18] Henry, Patrick Henry, vol. i, p. 100.

[19] Hutchinson, vol. iii, p. 119.

[20] W. Gordon, The History of the Rise, Progress and Establishment of the Independence of the United States of America, vol. i, p. 121.

but your Lordsps may depend on my rectifying this in the next session.[21]

This promise of Governor Fauquier was carried out. The letter from which the above extract was quoted was written on the first of September, 1760, and in October the assembly passed "An Act to explain and amend the Act, intitled, An Act for appointing an agent."[22]

This letter throws some light on the circumstances surrounding the passage of the act creating the colonial agent and appointing the committee of correspondence, under whose instructions he should work:

I hope Your Lordpps will indulge me in the explanation of the step leading to this Agent's Act. When my predecessor the Honble Mr *Dinwiddie* had a dispute in this Colony abt the Pistole Fee, the Burgesses lamented their not having an Agent at Home, to represent affairs of this nature to His Majty and Your Rt Honble Board, supposing natuarally enough that Mr *Abercrombie* who was paid by the Govt and Council out of the 2sh. duty, would not solicit that or any other affair against the Govr; so they sent home an Agent[23] on purpose at a great expence. From that time they have been very intent on an Agent's Act, which in Mr Dinwiddie's time they could never obtain; so intent were they on this affair, that they attempted to tack it to the money Bill, in the second Session after my arrival, which I told them I would certainly refuse under such conditions. As I hoped never to make myself liable to any complaint, I could not see the ill consequence of letting them have an Agent, upon their raising money on themselves to pay him. Thus the Agent's Bill was prepared and passed. Notwithstanding this appointment of an agent by Act of Assembly, Mr *Abercrombie* is still continued as Agent to me and the Council to transact all business relating to the Royal Revenues, and such other affairs as are immediately under our cognizance only. He has instructions to co-operate with the other Agent in all matters for the behoof and benefit of the Colony.[24]

There seems to be no reason why we should not accept this

[21] Letter from Lieutenant-Governor Fauquier to the Lords Commissioners for Trade, etc., in Bancroft Transcripts, Library of Congress. Printed in Appendix to Journals of the House of Burgesses, 1758–1761, pp. 287–289.

[22] Journals of the House of Burgesses, 1758–1761, pp. 190–196; Hening, vol. vii, pp. 375–377.

[23] Peyton Randolph, who was afterwards a member of both committees of correspondence.

[24] Letter from Lieutenant-Governor Fauquier to the Lords Commissioners for Trade, etc., in Bancroft Transcripts, Library of Congress. Printed in Appendix to Journals of the House of Burgesses, 1758–1761, pp. 287–289.

explanation of Governor Fauquier. His reasoning is logical; and whether one agrees with his analysis of the situation throughout or not, it was what he believed at the time concerning the affair, and history has shown that he was a man of tact and good sense. It is hardly too much to say of him that had his advice been followed by the British government in regard to colonial taxation, many of England's troubles in America might have been avoided. That he had correctly gauged the feeling of legislative independence which, even at this time, characterized the Virginians is shown by the fact that as early as 1760 he had warned Pitt that any taxation laid upon the colonies by the British government would lead to the most serious disturbances;[25] and it was only about five years later that his unheeded advice was proved to have been correct by the storm of protest that greeted the news of the Stamp Act.

Without discounting the testimony of Governor Fauquier, however, it may be said that he does not seem to have recognized that, in the creation of the committee of correspondence, the House of Burgesses had found a weapon with which to fight the future encroachment of king and Parliament. Fauquier was on good terms with the people of his colony, who seem to have liked him; and notwithstanding differences of opinion that arose between him and the members of the House of Burgesses, their personal relations were cordial. Of this there is abundant evidence in the journals of the House of Burgesses,[26] as well as in the letters[27] of the committee of correspondence to their agent. The good feeling which is manifested in their relations with each other is the best explanation of his failure to realize how effectively the Burgesses might use the committee of correspondence in a conflict between the executive and the legislative branch of the colonial government.

[25] W. Gordon, Independence of the United States, vol. i, p. 136.

[26] See Journals of the House of Burgesses, 1758–1761, and 1761–1765, especially the Messages of the Governor to the Assembly and the Addresses of the Assembly to the Governor during those years.

[27] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. xi, pp. 11, 13, 25.

On the other hand, the Board of Trade, having in mind past conflicts between the legislative and the executive branch of the colonial government, and realizing the use that could be made of such a committee of correspondence if it were amenable to the House of Burgesses alone, wished to have the act so drawn that the committee of correspondence should be clearly under the control of the General Assembly. With plans for a new and more closely supervised colonial policy under way, it is not unlikely that the administration expected trouble, and did not wish to give the Virginia House of Burgesses so powerful a weapon with which to oppose its colonial plans.

That the Agent's Act was passed in good faith by the Virginia Assembly, and that it was clearly set forth in the provisions of the act that the committee of correspondence should be under the joint control of both houses, were facts so evident to the General Assembly that, while that body was willing to amend and explain the act, as requested by the governor under instructions from the Board of Trade, the language of the explanatory clause in the new act clearly shows that the Assembly itself did not think the act of 1759 in any way ambiguous. While the Virginia legislature saw no need for explaining and amending the earlier act, it was so anxious to retain its agent and its committee of correspondence that it complied with the wishes of the administration and thus saved the act from being disallowed.[28]

In its first letter to Mr. Montague, written December 12, 1759, the committee of correspondence states in these words the reasons for the appointment of an agent:

> The Appointment of such an Officer to represent the Grievances of the People, to justify their Conduct to their Sovereign, to obtain his Approbation & Assent to such Laws as their Representatives shall think necessary for their Welfare and good Government, to implore his Assistance in the time of Danger and Calamity, and to protect and explain their Rights & Interest in Parliament, seem to be the natural Privilege of all Colonies, so far removed from their King and Mother Country. Yet the People of this Colony have had the Misfortune allways to be disappointed in their Endeavors

[28] Hening, vol. vii, pp. 375–377. Clause III of this act is the explaining and amending clause.

to attain this Right, tho universally claim'd, and enjoy'd by all his Majesty's other Colonies and have been obliged to depend for these great and important Services on an Agent appointed by the Governor and Council, who for want of the Weight which a national Establishment would have given him, the Authority which must necessarily be derived from every Power of the Legislature, the Instructions when and for what Reasons he should interpose, must have been very deficient in his Duty, when considered as regarding the whole. Besides sometimes different Interests arise among the different Branches of the Legislature, different instructions then become necessary; an Agent so appointed is obliged to obey those by whom he is appointed, and by the plainest Consequence in Affairs of the greatest Moment, the Body of the people may be left without the Shadow of a Representative.[29]

As shown by the extract just cited, the reasons for the appointment of the agent as set forth by the committee of correspondence are substantially those given by Governor Fauquier to the Lords of Trade.

In another paragraph the relation between the agent and the committee of correspondence is clearly stated as follows:

We being by the same Act appointed a Committee to correspond with the Agent, must now desire you to take this Office upon you, and that you will take Care allways to be ready to prevent the Repeal of Laws passed by the Legislature, the Reasons for which, will be from time to time transmitted to you by us; to support any Representations which it will be necessary to make, and for that Purpose will not fail to attend them thro' the several Boards to which they may be referred; To give early Intelligence of anything that may be moved in Parliament, or the Department for American Affairs to this Committee; And in all things relative to this Colony, to use your best Endeavors, according to your Discretion, to protect her Rights and secure her Interest.[30]

From this statement of his duties it will readily be seen that the chief function of the agent was to look out for any acts passed by the colonial legislature which might be called into question by the home government. In the exercise of this function he was to act under the instructions sent him, from time to time, by the committee of correspondence. Another important duty was the communication to the com-

[29] Letter from the committee of correspondence to the agent, dated December 12, 1759. Original in Virginia Archives. Printed in Proceedings of the Virginia Committee of Correspondence, in Virginia Magazine of History, vol. x, pp. 342–353.

[30] Letter to the agent, in Virginia Magazine of History, vol. x, p. 343.

mittee of the proceedings of Parliament or of any of the various governmental boards relative to American affairs, especially to the colony of Virginia. This latter function was very much the same as that of the intercolonial committees of 1773, the difference being that in this case the correspondence was carried on between the committee and the agent, whereas in 1773 the corresponding parties were committees of correspondence of different colonies, working for mutual interests.

Up to the year 1764 the records of the committee of correspondence are fairly well preserved. An examination of the proceedings and the correspondence shows that the committee was active in furnishing the agent with instructions regarding the legislation which he should support, and that it furnished him with data upon which he should base his arguments before the various bodies in which he had to appear in defending the acts of the General Assembly.

During the year 1759 there were six meetings of the committee of correspondence;[31] and of these meetings we have the minutes. Most of these meetings were taken up with deciding on instructions to be sent to the agent and in appointing a select committee to prepare the first letter written to him. The letter was finally forwarded to Montague on December 12. The principal matters to which his attention was directed by the committee were the defence of the vestries or collectors in any proceedings against them growing out of the provisions of the Two Penny Act, to which allusion has already been made; the solicitation of Virginia's share in the money appropriated by Parliament to reimburse the colonies in part for their great expenditures in the war against the French and Indians; to endeavor to procure the king's assent to "An Act for settling the Titles and Bounds of Lands and for preventing unlawful Hunting and Ranging," which as it had a suspending clause could not go into

[31] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. x, pp. 337–341.

effect without the royal assent;[32] and to make a defence against the complaints of the British merchants of the action of the Virginia Assembly in issuing treasury notes, and making them legal tender for sterling debts, subject to exchange whose rate should be determined by the courts.[33]

The regulation of the rate of exchange when sterling debts were paid in treasury notes, which had been issued by the Assembly to meet the increased expenditures of the war, was a matter of great importance, underlying as it did the very foundation of the economic life of the colony. By an instruction sent to the governor,[34] the Assembly had found that the merchants of Great Britain were still dissatisfied with the law making these notes (issued pursuant to several acts of Assembly for the defence of the colony) a proper tender for sterling debts. The reasons for the passing of such legislation were given to the agent, with a short review of the conditions leading up to the acts in question, in order that the agent might have material upon which to base his arguments in support of the action of the Assembly. From the "Defence of the Virginia Paper Currency"[35] enclosed in this letter to the agent, and from the statement of the situation made in the letter, it appears that the treasury notes of the colony and the laws governing their issue were emergency measures based on large humanitarian principles, and designed for the protection of the people and the security of the creditors.[36]

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[32] Hening, vol. v, pp. 408–431. This statute was passed to put into one act all the existing laws of the colony relating to the conveyancing, taking up, settling, saving, and cultivating of lands; and also to include with them an act prescribing the method of docking the entails of land of no greater value than £200 sterling, by a writ, called a Writ of Ad quod Damnum.

[33] Letter to the agent, in Virginia Magazine of History, vol. x, pp. 345–347. This letter gives reasons for the passage of this law, namely, that exchange being a fluctuating quantity, the act of Assembly gave the courts the power of determining the difference between the value of sterling money and the treasury notes at the time of judgment.

[34] Journals of the House of Burgesses, 1758–1761, p. 134.

[35] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. xi, pp. 1–5.

[36] W. Z. Ripley, The Financial History of Virginia, pp. 153–162; see also Virginia Magazine of History, vol. vi, pp. 127–134, which

In the year 1760 there were three meetings of the committee of correspondence, held during the months of October and November, the result of which was a second letter to the agent.[37] In this Montague was notified that he was not to look upon Abercrombie as agent of the colony, but that he should consider himself as such to all intents and purposes, and "not suffer any other Person to interfere" with him in the execution of that office.[38] He was further notified that the act for appointing an agent had been amended and explained so as to remove the objection urged against it by Sir Matthew Lamb, which had been the basis of the objection by the Board of Trade already noted.

Montague was likewise instructed how he should proceed in collecting Virginia's proportion of the money granted to the American colonies by Parliament. He was informed of the passage of two acts of Assembly, "the one for recruiting & further continuing the old Regiment in the Service of this Colony," and for other purposes therein mentioned,[39] the other for appointing "Persons to receive the money granted or to be granted by the Parliament of Great Britain to his Majesty for the use of this Colony."[40] By a clause in the former of these acts the governor, the president of the Council, and the speaker of the House were authorized to draw bills of exchange on James Abercrombie to the amount of £20,000, Virginia currency. By the other

contains a letter written by Richard Bland, a member of this committee of correspondence, in which he says that the British merchants at first bitterly opposed the note issue, but at the time he was writing they were the warmest solicitors of the Assembly for that species of money. He states that of £750,000 treasury notes which were issued during the war, it was probable that only the amount of £60,000 was outstanding. In discussing Virginia's first experience with paper money, Ripley says that it was on the whole a creditable one. "But we must remember the distress of the times, and the heroic exertions of the colony during the [French and Indian] war. In view of these facts, the moderation and foresight of her statesmen is in marked contrast with the reckless financiering of some of the other colonies both north and south" (p. 160).

[37] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. xi, pp. 10–17.

[38] Ibid., p. 12.

[39] Hening, vol. vii, p. 369.

[40] Ibid., p. 372.

act the same officers of the colony were authorized and empowered to draw bills of exchange on the said Abercrombie for the balance remaining in his hands of the £32,260 19s. and £20,546 allotted by His Majesty to the colony; and Montague was authorized and empowered to receive this money from Abercrombie, after having informed himself what commissions had been allowed the agents of the other colonies for the collection of similar claims. Any further grants of money to the colony Montague was authorized to receive. In this letter it is clearly shown that the committee of correspondence looked to Montague as the agent of the colony.[41]

In this letter there was also enclosed an address and explanation regarding legislation enacted by the General Assembly, which had been thrown in an unfavorable light by the complaints of the clergy. The agent was directed to make use of the arguments set forth in the representation, which the committee conceived to be "sufficient to acquit the Legislature of any sinister or disloyal Intentions."[42] So important did the committee of correspondence deem the matters discussed in that document that it wrote the agent concerning them as follows:

> But as the matters contain'd in the latter Part of the Representation are of the greatest Importance to this Colony, & the very being of the Constitution depending thereon, it may be necessary to add some further Observations and Reasons to those contained therein. The Instructions to the Governor of this Colony were given by King Charles the second soon after the Restoration, & have had little Alteration since. By the 16th Article of those Instructions the Governor is directed to pass no Act of less Continuance than two Years, & no Act repealing or amending any other Act, whether the same has or has not receiv'd his Majesty's Assent, unless a Clause be inserted suspending the Execution thereof until his Royal Pleasure shall be known. So far as relates to the passing Acts for repealing or amending any Act assented to by His Majesty, the Assembly has always paid a due Obedience to his Instructions, but the Instruction relating to the repealing or amending Laws, which never have had His Majesty's Assent, or have been made for a shorter term than two Years, has never been attended to. And as

[41] Letter to the agent, in Virginia Magazine of History, vol. xi, p. 14.

[42] Ibid.

a proof that this Instruction has not always been enforced even by the Ministry, the General Assembly revise'd our Laws in 1748, when many of them were both alter'd and repeal'd. The Ministry at that Time were so far from disapproving their Conduct, that they recommended it to the other Colonies to imitate their Example. By a Recourse to the Laws, you'll find that the Assemblies have exercis'd this Power since the Date of the Instructions so much relied on. And we are persuaded that this Instruction would not at this Time have been enforced, had it not been for the Clamour of a few dissatisfied Clergy, who preferring their own interest to every other Consideration, have not hesitated by their cunning & artful Insinuations, & by their false & scandalous Representations to blacken the Character of the Legislature of this Colony. Upon this factious Complaint of the Clergy his Majesty has been pleas'd to send an Additional Instruction to enforce that old Instruction, which has been so long consider'd as obsolete, By which the Governor, who is on every Occasion desirous of promoting the Interest & Happiness of this Colony, thinks himself restrain'd from passing any Act contrary to the Letter thereof. And it is apparent that if he should adhere thereto, the Privilege of making Laws, which all his Majesty's colonies have, & ought to enjoy, will be abridg'd, & in a great Measure abolished.[43]

The necessity of passing temporary legislation is explained by the committee, and it is shown that this would be impossible if the new instructions were adhered to:

For all countries are liable to such Changes & Accidents, as require the immediate Interposition of the Legislature, And no less than an infallible Power can form Laws so perfect that they may not afterwards stand in Need of Alterations or Amendments. You can easily suggest the many Inconveniences we must necessarily labour under, by being oblig'd to suspend the Execution of any Act, let ye emergency be ever so great, till his Majesty's Pleasure can be known. It is well known, that we have been in a state of War ever since the Year 1753, that we have been under a Necessity to make annual Provision for our Troops, and to guard against the various & unforeseen Events which must happen at such a Time, That an annual Provision must be made to prevent Mutiny & Desertion, neither of which can be done if we are restrain'd by Instructions from passing such occasional Laws.[44]

The letter shows further that in the year 1705 an act[45] was passed by the Assembly for paying the burgesses one hundred and thirty pounds of tobacco and cask per diem, which was equivalent to ten shillings; and that notwithstand-

[43] Letter to the agent, in Virginia Magazine of History, vol. xi, pp. 14–16.

[44] Ibid., p. 16.

[45] Hening, vol. iii, p. 244.

ing the great advance in the value of tobacco, the Assembly had consistently passed acts fixing the salaries of the burgesses in money at ten shillings per diem. This was done to ease the people, and shows conclusively that the burgesses had not acted on principles of self-interest, but for the general good of the people of the colony.

For the year 1761 we have the record of three meetings of the committee of correspondence. The first was held on May 4, and resulted in the drafting and adopting of a third letter to the agent.[46] In this he was instructed to defend the passing of an act of Assembly entitled, "An Act for the Relief of certain Creditors,"[47] and to support the act should its validity be called into question before the Privy Council in an appeal from a decree in Chancery passed by the Virginia general court. The case in which the validity of this law was involved was that of Thornton et als. v. Buchanan and Hamilton, late of London, Bankrupts, and their Assignees and Factors in Virginia. As the respondents would send over a copy of the decree of the general court and as they would also employ counsel to prevent a reversal of the decision of that body, the agent was instructed not to act as a principal in the dispute, although he was asked to employ the best counsel he could to defend the act; and he was furnished with a copy of the act, ratified in due form by the king. This ratified act of Assembly the committee declared "no power on Earth can alter the Force of . . . less than our Assembly with his Majesty's Assent." Montague was further instructed regarding the number of soldiers furnished for the campaign of 1760. He was provided with evidence to prove that the colony had expended all that they had received of the former parliamentary grants, and that there would be a large deficiency when the expenses of the war were all paid. He was also to make application to the Lords of the Admiralty for some protection to the trade between Great Britain and Virginia, as it was being preyed

[46] Letter to the agent, in Virginia Magazine of History, vol. xi, pp. 18–21.

[47] Hening, vol. v, p. 244.

upon by the privateers of the enemy. Not only had their letters to the agent been twice taken in this way, but the people were complaining of the unprotected condition of the coasts of the colony; and a trading ship from Guinea had been carried off from the entrance to the largest Virginia harbor. Against such conditions the agent was instructed to enter a protest.[48]

At a meeting on June 3 the fourth letter to the agent was adopted and signed by the members who were present, the letter having been previously drafted by a select committee consisting of Messrs. Peyton Randolph, Nicholas, and Wythe, who had been appointed to this committee at the meeting held on the eleventh.[49] In this letter Montague was notified that his letters of February 15 and 19 and March 3 and 5 had been received; and the committee expressed itself as being pleased with his work. The delay in transmitting the Assembly's expressions of grief at the death of George II, as well as their congratulations to his successor on his accession to the throne, was explained as being due to the fact that these matters had had to await the meeting of the Assembly. In regard to the appropriations of Parliament to the colonies for their war expenses the committee wrote as follows:

> If the resolution of the lords of the treasury 'to admit no sollicitations from the agents relating to the distribution of the money granted by parliament' is not unalterable; if they can be made acquainted with what we have formerly written on that head; if they knew what is notorious and confessed here, that Maryland did not furnish a single man for the service in 1759, and for several years before; and if they were informed that 1,000 of the men levied, subsisted and paid by this colony last campaign, serving under an officer who received his orders from General Amherst, were intended to have joined his majesty's forces under Col. Monkton, and would actually have done so, but they were afterwards, with the general's approbation, directed to assist the forces from South Carolina under col. Montgomery. We say if these considerations were sufficiently attended to, have we not reason to hope the application of the money would be more justly proportioned to the vigor and strenuous efforts of the respective provinces?

[48] Letter to the agent, in Virginia Magazine of History, vol. xi, pp. 18–21.

[49] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. xi, pp. 21–23.

The only other matter of great importance discussed in this letter was the regulation of the commission to be paid to the agents for the collection of these parliamentary grants; and Montague was notified that he was to get one and a half per cent for his collections. In regard to the excessive commissions charged by Abercrombie, he was to notify that gentleman that these should be reduced to that percentage of the money collected, or Montague would refuse to pass his account at the treasury.[50]

The proceedings of the committee of correspondence that have been preserved for the year 1762 are extremely meagre. These records show two meetings in the spring of that year, one on April 30 and the other on May 4. At the first meeting a letter was ordered to be prepared by a select committee, then appointed, and the subjects of instruction for the agent were stated in an order by the committee as a whole. The minutes of the second meeting simply show what members were present. As this meeting was held a few days after that just mentioned, it is likely that the select committee for preparing the letter to the agent reported back to the full committee its draft of the letter, which on that day was signed by the members present, for we find an allusion made to the letter to the agent of the date of May 4 in a later meeting of the committee.[51] No copy of this letter is found in the record of the proceedings of the committee of correspondence though it was undoubtedly prepared and transmitted to the agent.[52]

The records of the committee of correspondence are more complete for the year 1763. Meetings were held on the following dates: March 29, June 16, and June 17. At the first meeting it was decided that a select committee should prepare a letter to the agent which should furnish reasons for the support of the law relating to the election of the bur-

[50] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. xi, pp. 23–25.
[51] Ibid., p. 132.
[52] Ibid., pp. 131, 132.

gesses,[53] the law for the relief of insolvent debtors,[54] the law for regulating the gold coin of the German Empire,[55] and the law regarding "Strays."[56] The first and fourth of these acts having suspending clauses, the agent was instructed to apply for the king's assent to them. He was also to apply to Parliament for leave to import salt from any of the countries of Europe, and the committee furnished him with extensive arguments in favor of this privilege. Moreover, he was ordered to inform the committee at his earliest opportunity of any objection that should be urged against the importation of salt; and he was directed to ask the assistance of the other agents in securing the free importation of this necessity.[57] This was an important step toward cooperation.

At the meeting held on June 16 a letter was adopted, which had been previously drawn up by some members of the committee, answering the British Merchants' Memorial and the Resolution of the Board of Trade relative to the Virginia paper currency. It was ordered that two copies of the letter, as well as of the papers mentioned therein, should be prepared and sent to the agent.[58] The next day at another meeting, in which the same members were present, a letter was prepared enclosing a draft of an address prepared by the House of Burgesses in favor of the officers of the Virginia regiment for presentation to His Majesty. In this there were two enclosures, one a paper seeking consent of the king to a bill for declaring slaves personal property, the other, notifying the agent of the passage of an act for adding new members to the committee of correspondence. The second enclosure stated that the Assembly had agreed to allow Abercrombie's claim for £140, and would send the "proper powers for his obtaining it, upon

[53] Hening, vol. vii, p. 517.
[54] Ibid., p. 549.
[55] Ibid., p. 575.
[56] Ibid., p. 545.
[57] Letter to the agent, in Virginia Magazine of History, vol. xi, pp. 133–143.
[58] Ibid., p. 350.

his paying the Ballance due, for which they will draw on him."[59]

That the committee of correspondence, during the years through which we have traced its proceedings, looked upon itself as a standing committee of the General Assembly is evident from the fact that its papers and correspondence were frequently laid before that body,[60] and that the committee carried out the orders and instructions of the Assembly is shown by the letters to the agent which contained instructions carrying out the resolutions of the legislature.[61] Composed as it was of the leading members of both the Council and the House of Burgesses, it is only natural that the committee of correspondence should have kept in close touch with those bodies.

During the year 1764 four meetings were held. At the first, held on January 18, the letters of Montague dated April 20, June 28, and October 10, 1763, were read and acknowledged. He was thanked for his care and attention to the interest of the colony, especially in regard to the parliamentary grant for the service of 1762. Approval was expressed of the "measures he had taken in concert with the other American agents to obtain a division of the Parliamentary grant of 1761; and he was directed to take the proper steps for receiving the proportion agreed to be refunded by the province of Pennsylvania." Should the act for regulating the election of burgesses be repealed, the agent was instructed to obtain permission for the reenactment of such parts as were not disapproved by the administration. In answer to the application of the gentleman who desired to have the colony sell him the right to an exclusive fishery at the Virginia Capes, Montague was ordered to answer that the committee believed all such exclusive grants to be extremely prejudicial to others; and further that it was of the opinion that the adjoining lands were bounded

[59] Letter to the agent, in Virginia Magazine of History, vol. xi, pp. 348–349, 350–354.

[60] Journals of the House of Burgesses, 1761–1765, pp. 9, 70, 173, 175.

[61] Ibid., 1761–1765, pp. 37, 159, 193.

by the sea, and the proprietors could not dispose of such a right.[62]

At a meeting held on June 15 letters from Mr. Montague bearing the dates of November 26 and December 23, 1763, and January 20 and 26 and March 10, 1764, were read,[63] and a committee consisting of Messrs. Wythe and Nicholas was appointed to prepare a reply. The draft of this letter was reported at the next meeting, July 28, when it was agreed to and signed by the members present, with the addition of a postscript "immediately penned at the Table."[64] The postscript was prompted by the reading of a letter from Mr. Montague received since the last meeting, stating that Parliament seemed determined to tax the colonies. The reply is mostly confined to a discussion of the Stamp Act, and states very clearly the opposition on the part of the committee to such a measure. As Virginia took a leading part in the opposition to the Stamp Act and as the famous resolutions against that measure originated in the House of Burgesses,[65] it is especially important that the opinion of its committee of correspondence regarding taxation should be carefully examined. The statement made in this letter to the agent is based on the principle that representation and taxation go hand in hand; and their protest exhibits gloomy forebodings for the future.

We have been *very uneasy* at an Attempt made in Parliament to lay a Duty on the several Commodities mentioned in their Votes, of which you were pleased to favour us with a Copy; the tax upon Madeira Wine will be very inconvenient to us, & we had it in our Intention to furnish you with such Reasons ag't it as we thought

[62] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. xii, pp. 4–5.

[63] Ibid., pp. 5–6.

[64] Ibid., pp. 6–7.

[65] G. Bancroft, History of the United States, vol. iii, p. 112; Edmund Burke, Speech in the House of Commons, April 19, 1774, in P. Force, The American Archives, 4th series, vol. i, pp. 155–156 (cited as American Archives); Letter from John Adams to Patrick Henry, June 3, 1776, in C. F. Adams, The Life and Writings of John Adams, vol. ix, pp. 386–388. For Jefferson's statement to William Wirt and Edmund Randolph's statement in his History of Virginia, see Henry, Patrick Henry, vol. i, p. 100.

might have some Weight, but finding from the public Prints that an Act, imposing this Duty, had already pass'd, it is become unnecessary for us to say any Thing farther upon that Head. The Proposal to lay a stamp Duty upon Paper & Leather is truly alarming; should it take Place, the immediate Effects of an additional, heavy burthen imposed upon a People already laden with Debts, contracted chiefly in Defence of the Common Cause & necessarily to continue by express Stipulation for a number of years to come, will be severely felt by us & our Children; but what makes the approaching Storm appear still more gloomy & dismal is, that, if it should be suffer'd to break upon our Heads, not only we & our Children, but our latest Posterity may & will probably be involved in its fatal Consequences. It may, perhaps, be thought presumptious in us to attempt or even desire any Thing which may look like a restraint upon the controlling Power of Parliament: We only wish that our just Liberties & Privileges as free born British Subjects were once properly defin'd, & we think that we may venture to say that the People of Virginia, however they may have been misrepresented, would never entertain the most distant Inclination to transgress their just Limits. That no Subjects of the King of Great Britain can be justly made *subservient* to Laws without either their personal Consent, or their Consent by their Representatives we take to be the most vital Principle of the British Constitution; it cannot be denied that the Parliament has from Time to Time, where the Trade of the Colonies with other Parts was likely to interfere with that of the Mother Country, made such laws as were thought sufficient to restrain such Trade to what was judg'd its proper Channel, neither can it be denied that, the Parliament, out of the same *Plenitude of its Power,* has gone a little Step farther & imposed some Duties upon our Exports; but to fix a Tax upon such Part of our Trade & concerns as are merely internal, appears to us to be taking a long & hasty Stride & we believe may truly be said to be of the first Importance.[66]

From this extract it will readily be seen that the committee of correspondence, while recognizing the power of Parliament to levy the tax provided for in the Stamp Act, distinguished clearly between the power of Parliament to levy such a tax and its right to do so. This distinction is especially apparent in the postscript before alluded to, which is as follows:

Since writing the foregoing Part of this Letter, we have received your last of 11 Apl; Every Mention of the parliam'ts Intention to lay an Inland Duty upon us gives us fresh Apprehension of the fatal Consequences that may arise to Posterity from such a Precedent; but we doubt not that the Wisdom of a British Parliamt will lead them to distinguish between a Power and Right to do any act. No man can say but that they have a power to declare that his Majesty

[66] Proceedings of Committee of Correspondence, in Virginia Magazine of History, vol. xii, pp. 9–10.

may raise Money upon the people of England by Proclamation, but no man surely dare be such an Enemy to his Country as to say that they have a Right to do this. We conceive that no Man or Body of Men, however invested with power, have a Right to do anything that is contrary to Reason & Justice, or that can tend to the Destruction of the Constitution. These things we write to you with great Freedom and under the greatest Concern, but your Discretion will teach you to make a prudent use of them.[67]

The postscript further asks why the British administration should not levy this sum of money in a constitutional way, if it was found necessary to meet the war debts by special taxes on the colonies. If a reasonable apportionment should be laid before the Virginia legislature, its past compliance with His Majesty's several requisitions during the late war left no room for doubt that it would do everything that could reasonably be expected of it. As the General Assembly would not meet until October 30, the agent was asked to do what he could to postpone any decision on this subject until its sentiments thereupon could be furnished to him by the committee of correspondence.

Unfortunately the records of the proceedings of the committee during the Stamp Act period are very meagre, but such as have been preserved are of extreme importance. In them we find the committee exercising functions which characterize the work of the committee of 1773. There was a meeting on December 19, toward the end of this session of the Assembly, which adjourned on December 21 to meet again the following May.[68] The proceedings of this meeting state that a letter was read from Mr. Montague, dated July 21, 1764, and that a reply was immediately prepared informing him of the proceedings of the present Assembly on the subject of taxes proposed to be laid on the colonies by Parliament. Copies of the address of the Assembly to the king and of the memorials to the two Houses of Parliament, which had been unanimously agreed to by the House of Burgesses and the Council,[69] were ordered to be

[67] Proceedings of Committee of Correspondence, in Virginia Magazine of History, vol. xii, p. 14.

[68] Journals of the House of Burgesses, 1761–1765, p. 309.

[69] Ibid., pp. 257, 301–305.

prepared and sent to the agent, who was instructed to use every possible means to have them properly presented and to support them with all the influence he had. The committee expected that there would be trouble in having the memorial presented to the House of Commons, for it wrote regarding this matter as follows:

> We are under some apprehensions that you will meet with Difficulty in getting the memorial to the Commons laid before them, as we have heard of their refusing to receive Petitions from the Colonies in former similar Instances. If this should be now the case we think you should have them printed and dispersed over the Nation, or the substance of them at least published in such manner as you may think least liable to objection, that the People of England may be acquainted with the Privileges & Liberties we claim as British Subjects; as their Brethren and the dreadful apprehensions we are under of being deprived of them in the unconstitutional method proposed.[70]

It is this function of publishing the colonial grievances and of stating colonial rights that is one of the most important features of the work of the committee of correspondence of 1773; and in the performance of this duty these two committees, the committee of correspondence appointed to communicate with the agent and the intercolonial committee of 1773, show a marked similarity.

This letter closed with a statement of the confidence of the committee in its agent, and with the declaration that the many proofs he had already given of attention to the interests of the colony gave assurance that he would do everything in his power to protect the rights of the colony at this time, and that it was persuaded that all of his efforts in that direction would be heartily seconded by the agents for the other American colonies.[71] Here in the face of a common grievance, which threatened alike the local self-government of every colony, the committee seemed to feel that mutual interests would draw the representatives of the various colonies together. Here also appears a desire that the agents of the respective colonies should cooperate

[70] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. ix, pp. 354–355.

[71] Ibid., p. 355.

to protect legislative rights which were the common property of all. That the committee should have expected united action in a cause involving the very governmental independence of each of the colonial assemblies is proof that even at this time certain forces, both within and without the colonies, were making slowly for their union.

It is in the proceedings of the House of Burgesses that direct evidence is found of the use of this committee for the purpose of intercolonial correspondence.[72] In its meeting of June 13, 1764, the Massachusetts general court, upon the motion of Samuel Adams, had appointed a committee to act in the recess of the court and to cooperate with the other governments in obtaining a repeal of the Sugar Act and preventing a Stamp Act.[73] Here was a recess committee created for a specific purpose, and it is in answering the letter of this committee that we see the Virginia House of Burgesses, in November of that year, utilizing its already existing committee of correspondence for intercolonial communication. The letter from the Massachusetts committee was received by the speaker of the House of Burgesses in July, and was laid by him before that body on November 1, a few days after the opening of the session. On November 13 this letter, together with the letters to and from the agent, were referred to the committee of the whole house sitting on the state of the colony; and on the next day the committee reported that, after considering the state of the colony, it had come to several resolutions. The first three of these resolutions provided for an address to the king, a memorial to the House of Lords, and a memorial to the House of Commons, protesting against internal taxation save by their representatives. The fourth resolution was as follows:

> That the Committee appointed to correspond with the Agent of this Colony in Great Britain pursuant to an Act of Assembly for appointing an agent, be directed to answer the letter of the 25th of

[72] Journals of the House of Burgesses, 1761–1765, p. 257.

[73] W. V. Wells, The Life and Public Services of Samuel Adams, vol. i, pp. 49, 50.

June last from the Committee of the House of Representatives of the Province of Massachusetts Bay to the Honourable the Speaker of the House of Representatives for the Province of Virginia, and to assure that Committee that the Assembly of Virginia are highly sensible of the very great Importance it is, as well to the Colony of Virginia, as to America in general, that the subjects of Great Britain in this Part of its Dominions should continue the possession of their ancient and most valuable Right of being taxed only by Consent of their Representatives, and that the Assembly here will omit no Measures in their Power to prevent such essential Injury from being done to the Rights and Liberties of the People.[74]

It was for a similar purpose of intercolonial correspondence that the committee of 1773 was formed; and it is only reasonable to suppose that the four members of this committee who had also been members of the earlier committee were influenced by their previous experience. One thing is clear, that they had seen the earlier committee perform the duty of intercolonial communication regarding the Stamp Act, and as far as the rules under which the committee was to work were concerned, it will be shown that they were similar to those governing the earlier committee.

It is very much to be regretted that the valuable series of papers containing the proceedings of the Virginia committee of correspondence is incomplete. For the period between July 28, 1764, and November 9, 1769, only two papers have been preserved. These are the proceedings of a meeting held December 9, 1764, which we have already examined, and of meetings of September 14 and 19, 1765. At the meeting of September 14 a select committee, consisting of Peyton Randolph, George Wythe, and Robert Carter Nicholas, was appointed to prepare a letter to the agent informing him of the receipt of his letters of November 19, 1764, February 7 and 16, April 4, and May 1, 1765, and notifying him of spurious copies of the resolutions of the last session of the Assembly which were being dispersed and printed in the newspapers. In order that he might prevent any bad impression from the circulation of the alleged action of the House of Burgesses it was decided to send

[74] Journals of the House of Burgesses, 1761–1765, pp. 233, 254, 256, 257.

him an authenticated copy of the resolutions passed on hearing of the Stamp Act.

These so-called "spurious copies" were doubtless copies made of the original draft by their author and mover Patrick Henry.[75] Originally there were seven resolutions, including the preamble, and it seems to have been Henry's intention to have all seven of them passed by the House of Burgesses. When this was found impossible, all seven were printed, probably for the effect they might have in the other colonies. They appeared in the Newport Mercury of June 24, and were copied in the Boston papers of July 1, 1765.[76]

There is in existence a transcript of the five resolutions that were adopted by the House of Burgesses, after having been introduced by Mr. Henry on May 29. On the back of the paper is an endorsement by Mr. Henry which gives his story of the passage of the resolutions.[77] Thomas Jefferson, then a student at William and Mary College, heard the debate, and gave the following interesting account of the passage of the resolutions and the subsequent expunging of the fifth resolution from the record:

[75] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. ix, pp. 355–360.

[76] Journals of the House of Burgesses, 1761–1765, Introduction, p. lxv.

[77] Preserved at Red Hill, Henry's old estate in Charlotte County.

"The within resolutions passed the House of Burgesses in May 1765. They formed the first opposition to the Stamp Act and the scheme for taxing America by the British Parliament. All the colonies, either through fear, or want of opportunity to form an opposition, or from influence of some kind or other, had remained silent. I had been for the first time elected a Burgess a few days before, was young, inexperienced, unacquainted with the forms of the House, and the members that composed it. Finding the men of weight averse to opposition, and the commencement of the tax at hand and that no person was likely to step forth, I determined to venture, and alone, unadvised, and unassisted, on a blank leaf of an old law-book wrote the within. Upon offering them to the House violent debates ensued. Many threats were uttered, and much abuse cast upon me by the party for submission. After a long and warm contest the resolutions passed by a very small majority, perhaps of one or two only. The alarm spread throughout America with astonishing quickness, and the Ministerial party were overwhelmed. The great point of resistance to British taxation was universally established in the colonies. This brought on the war which finally separated the two countries and gave independence to ours."

Mr. Henry moved and Mr. Johnston seconded these resolutions successively. They were opposed by Messrs. Randolph, Bland, Pendleton, Wythe, and all the old members, whose influence in the House had, till then, been unbroken. They did it not from any question of our rights, but on the ground that the same sentiments had been, at their preceding session, expressed in a more conciliatory form, to which the answers were not yet received. But torrents of sublime eloquence from Henry, backed by the solid reasoning of Johnston, prevailed. The last, however, and strongest resolution was carried but by a single vote. The debate on it was most bloody. I was then but a student, and stood at the door of communication between the House and the lobby (for as yet there was no gallery) during the whole debate and vote; and I well remember that, after the members on the division were told and declared from the chair, Peyton Randolph (the Attorney-General) came out at the door where I was standing, and said, as he entered the lobby: 'By God, I would have given 500 guineas for a single vote'; for one would have divided the House, and Robinson, was in the chair, who he knew would have negatived the resolution. Mr. Henry left town that evening, and the next morning, before the meeting of the House, Colonel Peter Randolph, then of the Council, came to the Hall of Burgesses, and sat at the clerk's table till the House-bell rang, thumbing over the volumes of journals, to find a precedent for expunging a vote of the House, which, he said, had taken place while he was a member or clerk of the House, I do not recollect which. I stood by him at the end of the table a considerable part of the time, looking on, as he turned over the pages, but I do not recollect whether he found the erasure. In the meantime, some of the timid members, who had voted for the strongest resolution, had become alarmed; and as soon as the House met, a motion was made and carried to expunge it from the journal. There being at that day but one printer, and he entirely under the control of the Governor, I do not know that the resolution ever appeared in print.[78] I write this from memory, but the impression made on me at the time was such as to fix the facts indelibly in my mind. I suppose the original journal was among those destroyed by the British, or its obliterated face might be appealed to. And here I will state, that Burk's statement of Mr. Henry's consenting to withdraw two resolutions, by way of compromise with his opponents is entirely erroneous.[79]

The statements of Henry and Jefferson regarding the passing of the resolutions are substantiated in their essential details by Judge Paul Carrington, a member of the House of Burgesses from Charlotte County, and by Governor Fauquier. In his letter of June 5, 1765, written to the Board of Trade,[80] Fauquier states that five resolutions were

[78] Mr. Jefferson's memory seems to have misled him here, as there were printed in the Williamsburg Gazette the four resolutions appearing on the journal and two additional ones. See Henry, Patrick Henry, vol. i, p. 93.

[79] Wirt, Patrick Henry, vol. i, pp. 78–83.

[80] In Bancroft Transcripts, Library of Congress.

passed on May 30, when only thirty-nine of the one hundred and sixteen members composing the House of Burgesses were present. He says that the "greatest majority" for any of the five resolutions was 5, and that the vote on the fifth resolution was only 20 for to 19 against. He continues:

> On Friday, the 31st, there having happened a small alteration in the House, there was an attempt to strike all the Resolutions off the Journals. The 5th which was thought the most offensive was accordingly struck off, but it did not succeed as to the other four. I am informed that the gentlemen had two more resolutions in their pocket, but finding the difficulty they had in carrying the 5th which was only by a single voice, and knowing them to be more virulent and inflammatory; they did not produce them. The most strenuous opposers of this rash heat were the Speaker, the King's Attorney and Mr. Wythe; but they were overpowered by the young hot and giddy members. In the course of the debates I have heard that very indecent language was used by a Mr. Henry a young lawyer who had not been a month a Member of the House; who carried all the young Members with him; so that I hope I am authorized in saying there is cause at least to doubt whether this would have been the sense of the Colony if more of their Representatives had done their duty by attending to the end of the Session.

What had happened was that a new leader had appeared in the House of Burgesses, one gifted with a power of oratory so magical as to cause Jefferson to say of his talents that "they were great indeed; such as I have not heard from any other man. He appeared to me to speak as Homer wrote."[81] But he was no less gifted in the fearlessness and the capacity so necessary to real, progressive leadership, and by his stand on the Stamp Act question he assumed the direction of his colony, while his spirited resolutions called the faltering statesmen in other provinces to fight boldly for colonial rights.[82]

Throughout the colonies there seems to have been quiet and submissive acquiescence in the stamp tax legislation until Henry's resolutions fired the people of all the colonies into open resistance. Otis had completely receded from the position he had taken on the writs of assistance, and was advising submission to the Stamp Act in these words:

[81] P. L. Ford, The Writings of Thomas Jefferson, vol. i, p. 6.
[82] Henry, Patrick Henry, vol. i, pp. 98–100.

"It is the duty of all humbly and silently, to acquiesce in all decisions of the supreme legislature. Nine hundred and ninety-nine in a thousand of the colonists will never once entertain a thought but of submission to our Sovereign, and to the Authority of Parliament in all possible contingencies. They undoubtedly have the right to levy internal taxes on the colonies." Notwithstanding this position, which was shared by Oliver, the town of Boston reelected Otis to the Assembly and Oliver to the Council in the following May. Furthermore, the Assembly of Massachusetts, on November 3, 1764, had stated that it yielded "obedience to the Act granting duties."[83] In most of the other colonies the state of affairs was very similar to that in Massachusetts.[84] Yet even the conservative element in the Virginia Assembly had not questioned the right of the colony to lay its own internal taxes, although they opposed Henry's resolutions as being too bold a statement of these rights. We have seen that Robinson, Peyton Randolph, and Wythe, the leaders of the opposition to Henry's resolutions, the first named the recognized leader of the "prerogative" party, had strongly opposed the stamp duties in the letter which they, as members of the committee of correspondence, had sent to the agent. Their opposition to the resolutions, therefore, was rather disapproval of the methods and language used by Henry than of the principles for which he fought.

The next paper in the records of the committee is a letter from Montague, dated November 9, 1769, which is followed by four letters, dated January 10, 15 and 18, and February 6, 1770, all of which show that the agent was keeping in close touch with the colonial situation and that he was communicating to the committee intelligence of the proceedings of Parliament and the Administration.[85] In his letter of

[83] Bancroft, vol. v, pp. 271, 180.

[84] Bancroft, vol. v, pp. 272, 293, 271, 294; Henry, Patrick Henry, vol. i, p. 66; W. Gordon, The Independence of the United States, vol. i, pp. 117, 119, 120; T. F. Gordon, History of Pennsylvania, p. 433; Documents relative to the Colonial History of New York, vol. vii, p. 710.

[85] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. xii, pp. 157–165.

February 6 he notified the committee of the petition of the merchants of Bristol and London for a repeal of the act imposing duties on paper, glass, painters' colors, and tea. The remaining letters from Montague are dated February 8, March 3, and March 6, 1770, and contain further information concerning the duties on tea.[86]

There seems to be only one other letter from the committee of correspondence to the agent, and this referred to a congress of the Cherokee Indians, the proceedings of which Governor Botetourt had laid before the House of Burgesses. Reasons were given for a memorial which the Burgesses had presented to the governor, and which had been objected to by John Stuart, the superintendent of Indian affairs.[87]

The act for appointing an agent and a committee of correspondence composed of members from both houses was passed in 1759 to continue for a term of seven years, and was continued and reenacted in April, 1766, for a term of five years from its expiration or until April, 1771. In 1772, in the spring session of the Assembly, the bill for appointing an agent, after having been twice read in the House of Burgesses, was turned over to the committee of the whole house. On being reported back to the House without any amendment, it was rejected.[88] No reasons appear for this action either in the journals of the House of Burgesses or in any other material that has been examined in the preparation of this study; and any reason that may seem to explain the refusal of the House of Burgesses to pass this measure must of necessity be in the nature of conjecture. However, it is well known that the leadership of the House of Burgesses had passed into the hands of younger and more radical men, who in 1773, at the next session of the Assembly, would create a committee of correspondence entirely under the control of the Lower House.

During the years between 1765 and 1772 many changes

[86] Proceedings of the Committee of Correspondence, in Virginia Magazine of History, vol. xii, pp. 165–169.

[87] Ibid., pp. 357–364.

[88] Journals of the House of Burgesses, 1770–1772, pp. 209–219.

had taken place in the colony. Fauquier had been succeeded by Botetourt, who had in turn been replaced by Dunmore. Much of the unpleasantness of the bitter controversies between the Virginia Assemblies and the British Administration had been softened or removed by the personal popularity and the tactfulness of the two first named; but Dunmore, from the early days of his administration, seems to have constantly irritated the Assembly in almost every possible way. Indeed, it is hardly stating the case too strongly to say that he was as tactless in stirring up strife and friction between that body and himself as Fauquier and Botetourt had been careful in avoiding difficulties and in handling problems of strained relationship between themselves and the same body. At a time when the representatives of the House of Burgesses should have been met with conciliatory proposals England had sent them a governor who was arbitrary, stubborn, and tactless.

The change of governors was not the only difference in the Virginia situation; great movements had taken place in the colony itself, and these changes had been reflected in the members of the House of Burgesses. Younger and more progressive leaders had wrested control from the hands of the older and more conservative members, who had for so many years directed the affairs and shaped the policies of the legislature; and even the conservatives in many instances had become more liberal with the realization that England had determined to carry through her policy of colonial taxation at any cost. The bitter fight over the Stamp Act resolutions, resulting in the victory of Henry, aided by the young "up-country" element, had been a heavy blow to the older and more conservative members of the House of Burgesses, whose strength was drawn from the "Tidewater aristocracy," the wealthy landed proprietors and large slaveholding class in the colony. Jefferson, who in 1769 had become a member of the House of Burgesses, said of the fight for the resolutions against the Stamp Act: "By these resolutions and his manner of supporting them, Mr. Henry

took the lead out of the hands of those who had heretofore guided the proceedings of the House; that is to say, of Pendleton, Wythe, Bland, and Randolph."[89]

This, however, was not the only defeat suffered by the old leaders in the later years of the sixties. In May, 1765, a loan scheme, supported by the political adherents of the speaker, John Robinson, treasurer of the colony, and thought by some to have been designed to cover up unauthorized loans[90] made by Robinson from the public funds, was passed by the House over the opposition of Henry, who opposed the measure on general principles, although it does not seem to have been publicly known that there was any shortage in Robinson's accounts. This scheme was disallowed by the Council at a conference with the committee sent up from the House.[91] This was followed on Friday, November 7, 1766, by the appointment in the House of Burgesses of a committee to examine into the state of the treasury. Before this committee had reported, a resolution was introduced in the House asking that the offices of speaker and treasurer be separated; and this proposal was carried by a vote of 68 to 29.[92] Robinson had died on May 11, 1766, and the report of the irregularities in his accounts made by the committee on December 12, 1766, is substantiated by the memorial of the administrators of his estate, laid before the House on the same day.[93] When the bill for dividing the offices of speaker and treasurer came up before the House, it was the occasion of a warm discussion between the friends of the speaker, led by Edmund Pendleton, who stoutly opposed the measure, and the forces favoring the bill, who were led by Patrick Henry and Richard Henry Lee. The bill passed, and the result of the contest was to bind Lee and Henry together in the closest friendship; but the animosities engendered by the struggle "lasted for years, and were shown in the conduct of the defeated

[89] Henry, Patrick Henry, vol. i, pp. 86–87.
[90] Journals of the House of Burgesses, 1761–1765, p. 350.
[91] Ibid., p. 356.
[92] Ibid., 1766–1769, pp. 14, 24.
[93] Ibid., pp. 65, 66, 67.

party toward Lee and Henry on more than one occasion."[94] A salary was provided for the office of speaker as a result of the passage of this bill, and this fact rendered the new speaker more the servant of the House. The treatment received by Henry about half a decade later at the hands of the committee of safety seems to have been the aftermath of these legislative battles with Pendleton.

A short period of quiet followed the repeal of the Stamp Act. During the year 1767 there was one meeting of the Assembly, and in this session there appears little of a revolutionary nature. On March 24 Mr. Bland laid before the House of Burgesses a letter and some papers received from the agent since the adjournment of the last meeting of the Assembly. These papers were referred to the committee appointed to examine into the state of the colony. On April 7 the House resolved itself into a committee of the whole, and it was ordered that an address to the king be prepared asking his assent to a scheme for issuing a supply of paper money sufficient to meet the need of the colony of a circulating medium. A committee was appointed to draw up this address and to prepare a scheme for emitting paper currency. The address and the scheme were reported back to the House on April 11 and were passed by that body. It was ordered that the address be transcribed and transmitted to the agent for presentation to the king. A copy of the currency scheme was also included, and Montague was requested to make inquiry whether a sum of money could be borrowed on the plan.[95]

In the session of the Assembly for 1768 we find that at the first day's meeting it was ordered that the committee of correspondence lay before the House the letters from the agent and the proceedings of the committee since the last session of the Assembly. This order was complied with at the next day's sitting.[96] During this session a letter was

[94] Henry, Patrick Henry, vol. i, p. 111.

[95] Journals of the House of Burgesses, 1766–1769, pp. 93, 125, 127, 128, 129.

[96] Ibid., pp. 143, 144.

laid before the House that had been received from the speaker of the Massachusetts House of Representatives. This letter was dated February 11, and copies had been sent to the speakers of each colonial house of representatives asking them to concur with the Massachusetts representatives in their application for redress.[97] Petitions had also been received from the freeholders of the counties of Westmoreland, Chesterfield, Henrico, Dinwiddie, Amelia, and Prince William[98] asking that the House of Burgesses take the grievances of the colonies under consideration, and praying for a petition to the king for a repeal of the oppressive acts of Parliament. All of these matters were referred to the committee of the whole house, with the result that a petition to the king and a memorial and remonstrance to each of the Houses of Parliament were adopted by the House of Burgesses and concurred in by the Council. It was ordered that Montague should act in conjunction with

[97] Journals of the House of Burgesses, 1766–1769, pp. 143, 145.

[98] Ibid., pp. 145, 146, 148. The text of the Prince William representation, which is fairly typical of the other petitions, is given in the Journals in substance by the clerk of the House, and is as follows: "A Representation of the Freeholders of Prince William County, whose names are thereunto subscribed, was presented to the House, and read setting forth, that it is with the greatest Concern they find the same unconstitutional Measures now pursued by the British Parliament, as gave rise to the late abhorred and detestable Stamp Act, which would have shackled the North Americans with Slavery, had they submitted to the Execution thereof: That Notwithstanding it is the undoubted Right of every Subject of Britain to be taxed only by Consent of Representatives chosen by themselves, which hath been ratified and confirmed to them during the Reigns of nine successive Princes; yet contrary to Magna Charta, and the Charters granted to the several Colonies in America, the Parliament hath again assumed to themselves the Right of laying Taxes and Impositions on the People of America by the several Acts for imposing certain Duties on British Commodities, for the purpose of raising a Revenue here the Billeting Act and the Act for depriving the New York Assembly of a Legislative Power, until they have complied with the Impositions of the Billeting Act; so that they have not only taken from the said Subscribers their Money without their Consents, but deprive them of their Liberty and Constitutional Rights as Freemen, which Freedom and Privileges they have hitherto equally enjoyed with their Fellow-Subjects in Britain: And therefore intreating the House to assert their Rights with decent Freedom; and to supplicate their most Gracious Sovereign to have their Grievances redressed by the Repeal of the said several late oppressive Acts."

Abercrombie, the agent for the governor and the Council, in obtaining the ends desired. It was also resolved that the speaker should deliver copies of the same to President Blair of the Council, who since the death of Fauquier had been ex-officio governor, and desire him to transmit the same to the principal secretary of state appointed to manage the affairs of North America.[99]

In regard to the letter from the Massachusetts House of Representatives it was resolved unanimously

> That Mr *Speaker* be directed to write to the Speaker of the honorable House of Representatives of the Province of the *Massachusetts* Bay to desire he would inform that House that his Letter of *February* 11th, 1768 written by their Direction and in their Name had been considered by this House that we could not but applaud them for their Attention to *American* Liberty and that the Steps we had taken thereon would convince them of our Opinion of the fatal Tendency of the Acts of Parliament complained of and of our fixed Resolution to concur with the other Colonies in their Application for Redress.

The speaker was also directed to write to "the respective Speakers of the Assemblies and Representatives on this Continent to make known to them our [the Burgesses'] Proceedings on this Subject and to intimate how necessary we think it is that the Colonies should unite in a firm but decent Opposition to every Measure which may affect the Rights and Liberties of the *British* Colonies in *America*."[100]

Here was a case where the letter was written directly to the speaker of the House of Burgesses; and as the Assembly was in session and considered the matter therein treated, there was no reason for its answer to be referred to the committee of correspondence. It was in the recess between the meetings of the Assembly that a committee for communication was most needed, and we have seen that its proceedings were regularly laid before the Assembly at each session. When the period between the sessions of the Assembly was long, the work of the committee was of necessity such that its members had to act more on their own initiative and re-

[99] Journals of the House of Burgesses, 1766–1769, pp. 157, 161, 163, 165–171, 173, 174.
[100] Ibid., p. 174.

sponsibility. When the sessions of the Assembly were close together the committee was guided largely by instructions given it by that body.

The first session of the Assembly for the year 1769 opened with the promise of being a peaceful meeting. Both Governor Botetourt's address at the opening of the session and the reply from the House of Burgesses seemed to indicate a harmonious period of legislative work; but this state of affairs did not continue very long, and ten days after its meeting the governor prorogued the Assembly. On the first day of the session the speaker notified the House "that according to the Direction of the House last Session of the General Assembly, he had written to the respective Speakers of the Assemblies and Representatives on this Continent, upon the Subject of sundry Acts of the *British* Parliament, and had received several Letters in Answer thereto;" and it was ordered that these letters should be laid on the clerk's table, where they could be read by the members of the House. It was further ordered that the letters "which had passed between the Committee of Correspondence, and the Agent for this Colony, for the last Five Years, and the Papers they refer to, be laid before the House."[101]

These letters were considered by the committee of the whole house; its report to the House of Burgesses contained the following resolutions, which were unanimously adopted:

Resolved, That it is the Opinion of this Committee, that the sole Right of imposing Taxes on the Inhabitants of this his Majesty's Colony and Dominion of Virginia, is now, and ever hath been, legally and constitutionally vested in the House of Burgesses, lawfully convened according to the ancient and established Practice, with the Consent of the Council, and of his Majesty, the King of *Great-Britain*, or his Governor, for the Time being.

Resolved, That it is the Opinion of this Committee, that it is the undoubted Privilege of the Inhabitants of this Colony, to petition their Sovereign for Redress of Grievances; and that it is lawful and expedient to procure the Concurrence of his Majesty's other Colonies, in dutiful Addresses, praying the royal Interposition in Favour of the Violated Rights of *America*.

Resolved, That it is the opinion of this Committee, that all Trials

[101] Journals of the House of Burgesses, 1766–1769, pp. 189, 190, 209.

for Treason, Misprison of Treason, or for any Felony or Crime whatsoever, committed and done in this Majesty's said Colony and Dominion, by any Person or Persons residing therein, ought of Right to be had, and conducted in and before his Majesty's Courts, held within the said Colony, according to the fixed and known Course of Proceeding; and that the seizing any Person or Persons residing in this Colony, suspected of any Crime whatsoever, committed therein, and sending such Person, or Persons, to Places beyond the Sea, to be tried, is highly derogatory to the Rights of *British* Subjects; as thereby the inestimable Privilege of being tried by a jury from the Vicinage, as well as the Liberty of summoning and producing Witnesses on such Trial will be taken away from the Party accused.

Resolved, That it is the Opinion of this Committee, that an humble, dutiful, and loyal Address, be presented to his Majesty, to assure him of our inviolable Attachment to his sacred Person and Government; and to beseech his royal Interposition, as the Father of all his people, however remote from the Seat of his Empire, to quiet the Minds of his Subjects of this Colony, and to avert from them, those Dangers and Miseries which will ensue, from the seizing and carrying beyond Sea, any Persons residing in *America,* suspected of any Crime whatsoever, to be tried in any other Manner, than by the ancient and long established Course of Proceeding.

It was ordered that the speaker should, without delay, transmit to the speaker of each of the several houses of Assembly a copy of these resolutions, and that he should request their concurrence in the same. A committee was also appointed to draw up the address to the king agreed on in the fourth resolution.[102]

On the next day, May 17, it was ordered by the House of Burgesses that the resolutions of the Lords Spiritual and Temporal, in Parliament assembled, and also the address of the Lords Spiritual and Temporal and Commons, in Parliament assembled, to His Majesty, transmitted to the committee of correspondence by the agent in his letters of December 16, 1768, and February 18, 1769, should be printed in the Virginia Gazette; and it was further ordered that the four resolutions of the committee of the whole house, subsequently adopted by the House of Burgesses, should be published in the same paper. It was also voted that the address to the king, which had been reported by the committee appointed to prepare it and had been adopted without a dissenting vote by the House, should be sent to

[102] Journals of the House of Burgesses, 1766–1769, pp. 214–215.

the agent for the colony, "with Directions to cause the same to be presented to his Most Excellent Majesty; and afterwards to be printed and published in the *English* Papers." On this same day the governor, having heard of the resolutions of the Burgesses, immediately dissolved the Assembly.[103]

Directly after this dissolution the members of the House of Burgesses, "judging it necessary" that some action should be taken to relieve their "distressed Situation, and for preserving the true and essential Interests of the Colony," resolved upon a meeting, and they repaired at once to the house of Anthony Hay. Peyton Randolph was appointed moderator, by a unanimous vote of the members present, and it was decided that "a regular Association should be formed." A committee was appointed "to prepare the necessary and most proper Regulations for that Purpose," after which the meeting adjourned until the following day. At this meeting the committee reported an association by the terms of which the subscribers to the agreement promised to abstain from the use of those articles of trade imported from Europe, specified therein, upon which the British Parliament had laid a tax. This agreement was unanimously adopted, and was signed by the eighty-eight burgesses present, by the clerk to the association, and by nineteen other citizens, who signed in accordance with the invitation in the preamble.[104] This action of the Virginia Assembly was followed by several of the other colonies, whose assemblies approved the Virginia resolutions of May 16, and in some cases adopted them verbatim.[105]

The session of the Assembly for November and December, 1769, was a peaceful one. In his opening address the governor notified the Assembly that he had received assurances from the Earl of Hillsborough "that his Majesty's present Administration have at no Time entertained a De-

[103] Journals of the House of Burgesses, 1766–1769, pp. 215, 216, 218.
[104] Minutes of the Association of 1769, printed copy in the Virginia State Library. Reprinted in Introduction to Journal of the House of Burgesses, 1766–1769, pp. xxxix–xliii.
[105] Henry, Patrick Henry, vol. i, p. 142.

sign to propose to Parliament to lay any further Taxes upon America for the purpose of raising a Revenue, and that it is their intention to propose in the next Session of Parliament, to take off the Duties upon Glass, Paper, and Colours, upon Consideration of such Duties having been laid contrary to the true Principles of Commerce."[106] This assurance that the objectionable duties would be removed, together with the fact that much legislation was needed to replace what had expired or had been neglected during the period of excitement following the Stamp Act, tended to make the session a quiet but busy one.

On Friday, November 10, the speaker reported that he had transmitted to the speakers of the several assemblies of the American colonies copies of the resolutions agreed to by the House, requesting their concurrence therein; and that he had received letters on that subject from the speakers of several of the said assemblies. He had also transmitted to the agent the address to the king, with proper directions, and had received the reply of that official. These letters were laid on the table, together with the letters that had passed between the committee of correspondence and the agent since the seventeenth day of the last May, so that they might be read by the members.[107]

In the session of the Assembly for 1770 there was little of a revolutionary tendency. Governor Botetourt seems to have been on good terms with the members of the House of Burgesses and to have won their friendship and respect. On June 30, 1770, he wrote to the secretary of state as follows regarding the session of the Assembly which had just closed:

> Upon Thursday the 28th of June I prorogued the Assembly of this Dominion to Thursday the 25th of October next after having passed 46 Bills and rejected one on account of money's being to be issued by that Act without my warrant, am convinced that the omission happened by mistake, but for fear of the precedent I refusing passing the Bill and told my reasons- The House of Burgesses have directed that their Agent do lay before his Maj'ty an humble

[106] Journals of the House of Burgesses, 1766–1769, pp. 226, 227.
[107] Ibid., p. 240.

petition, in which they pray for a total repeal of the Act which granted certain duties for the purpose of raising a Revenue, and beg to be relieved from hardships to which they apprehend themselves improperly liable from his Maj'ty's Courts of Vice-Admiralty- Many of them have likewise signed the inclosed association: If I am rightly informed we are chiefly indebted for both these measures to the Patriots of England, the Merchants and Factors residing in this Country having been pressed by letters from home to promote distress to their Mother Country by all possible means.[108]

In this letter he enclosed to the home government a copy of the association entered into by the gentlemen of the House of Burgesses and the body of merchants assembled in Williamsburg, June 22, 1770. This association was signed by one hundred and sixty persons, and numerous copies were circulated throughout the colony,[109] receiving the signatures of many subscribers. One feature of the association that was afterwards used with great success by the county committees of 1774 and 1775 was the creation of a committee in each county whose duty it should be to look out for violations of the aims of the association and to publish the names of all offenders, with an account of their conduct. However, the plan outlined by the associators does not seem at this time to have worked in a satisfactory manner,[110] though it was later used with marked success. William Nelson, who upon Botetourt's death became acting governor, credits its failure to the defection of the northern provinces.

During this session of the General Assembly the usual inspection of the proceedings and letters of the committee of correspondence is shown by the fact that on May 23 these papers were laid before the House. On June 27 the petition to the king voted by the House of Burgesses, asking the repeal of the colonial revenue acts, was delivered to the committee for transmission to the agent with instructions that "after it shall be presented, or offer to be presented,

[108] Letter from Botetourt to the Secretary of State, in Bancroft Transcripts, Library of Congress.

[109] Copy of the Association, in Manuscript Division, Library of Congress.

[110] Letter from Acting-Governor Nelson to Lord Hillsborough, December 19, 1770, in Bancroft Transcripts, Library of Congress.

that he procure it to be printed and published in the *English* Papers."[111]

The short session of July, 1771, following the death of Governor Botetourt, was convened by William Nelson, president of the Council, who pending the appointment of a successor to Governor Botetourt was ex-officio governor. In the journal of this session there is no allusion to the committee of correspondence. A recent flood, the worst recorded in the history of the colony, had occasioned great loss to the people of Virginia. Especially had the owners of tobacco which was stored in the public warehouses, built for convenience of transportation at landings on the great rivers, lost heavily; and most of the session was taken up with the passing of relief legislation.[112]

During this session there was much agitation of the question of establishing an American Episcopate. In some of the northern colonies this measure was warmly advocated by the press; and the effort of New York and New Jersey to petition the king in favor of the project caused Dr. Cooper and Dr. McKean to visit the southern colonies to seek their cooperation. Although this visit resulted in a convocation of the Virginia clergy, only a few attended. Reverend John Camm, who had been such a vigorous opponent of the Two Penny Act, took a prominent part in its proceedings, and was one of those who joined in the petition to the Crown. Four of the clergy present at this meeting, however, entered a protest against the scheme of introducing a bishopric, arguing that such action would endanger the existence of the British Empire in America; and Messrs. Henley, Gwatkin, Hewitt, and Bland, the authors of this protest, received a unanimous vote of thanks from the House of Burgesses.[113]

Dunmore, soon after to become the governor of Virginia, issued a proclamation on October 12, 1771, dissolving the

[111] Journals of the House of Burgesses, 1770–1772, p. 102.
[112] Ibid., pp. 119–136.
[113] Ibid., pp. xxxi–xxxii (Introduction), p. 122; Campbell, pp. 561–562; Letter from Richard Bland, in Virginia Magazine of History and Biography, vol. vi, pp. 127–134.

Assembly, which had been prorogued at the close of the last session to meet again on the fourth Thursday of October. This dissolution had no effect save to elicit indisputable proof that the House of Burgesses had reflected the sentiments of the people; for there was practically no change in the personnel of the members elected to the new Assembly, the roster showing only four changes in the entire body of members. After the election of the new House of Burgesses, Dunmore, by five proclamations, postponed their meeting to February 10, 1772.[114]

At the session of February–April, 1772, as has been already pointed out, a bill was introduced to reenact the law appointing the agent and the committee of correspondence. This bill was defeated at its second reading, after having been considered for several days, recommitted to the committee of the whole house, and reported back by them without amendment. During the period in which this bill was considered the correspondence and proceedings of the committee from the time of its appointment in 1759 was laid before the House for consideration. No evidence appears in the journals to show why the bill was rejected; and as the debates on measures were not recorded, it is impossible to give with any degree of certainty the reasons why the committee was not reappointed. It is only in the light of after events that an inference may be drawn, which appears to be at least reasonable. It is certain that the opposition to the measure developed during its second reading, for it was at that time that it was sent back to the committee of the whole. It does not seem unlikely that the attempt was made to appoint a committee of correspondence which should be under the entire control of the House of Burgesses, and that this attempt was defeated in the committee and the bill was voted down by the whole house. This explanation seems all the more plausible in the light of the fact that in its next session the House of Burgesses

[114] Journals of the House of Burgesses, 1770–1772, pp. 144–153.

appointed just such a committee of correspondence. It is easy to understand why the House of Burgesses should prefer a committee entirely under its own control, for Dunmore had become governor, and the Council would be, of necessity, in his power. The House of Burgesses had already learned that little more than irritating interference could be expected from a governor of Dunmore's type.

CHAPTER IV

The Committee of Correspondence and the First Continental Congress

The situation at the opening of the year 1772 had been hopeful for those who looked for conciliation and an easing of strained relations between the mother-country and her colonies. The claim of Parliament of the right of taxation had not been very strictly enforced; and the colonies had fought the existing revenue act by a refusal to buy the taxed articles. The question of taxation ceased to be agitated to any very great extent, and the kindly relations between England and America would probably have been renewed "had not the Administration kept up a series of most irritating measures." The Assembly of Massachusetts was not allowed to meet at Boston, the place of meeting being changed to Cambridge. The assemblies that refused to obey the orders of the administration, however unusual or oppressive these orders might be, were promptly dissolved. Arbitrary and even dishonest men were appointed to positions of power in the provinces, and were paid out of the English treasury to render them independent. In Georgia the speaker elected by the Assembly was rejected by the governor, and in all of the colonies royal instructions were put above law and precedents of colonial government. This was against the spirit of the British constitution as construed by the Court of King's Bench, presided over by Lord Mansfield, which had held that where there was a colonial assembly the king's prerogative did not extend to the making or altering of laws.[1]

When Dunmore prorogued the Assembly in April, 1772,

[1] Henry, Patrick Henry, vol. i, pp. 154, 155; Cowper's Reports, 204, Campbell v. Hall.

he had stated that it would be reassembled on June 25, following; but it was not until March 4, 1773, that the House of Burgesses was called together, after several prorogations. On March 12 the House resolved itself into a committee of the whole upon the state of the colony; and in this committee Dabney Carr, a representative from Louisa County, moved the following resolutions, which were reported favorably by the committee and were unanimously adopted by the House of Burgesses:

> Whereas the minds of his Majesty's faithful Subjects in this Colony have been much disturbed by various Rumours and Reports of proceedings tending to deprive them of their ancient, legal and constitutional Rights.
>
> And whereas, the affairs of this Colony are frequently connected with those of Great Britain, as well as of the neighboring Colonies, which renders a Communication of Sentiments necessary; in Order therefore to remove the Uneasiness, and to quiet the minds of the People, as well as for other good purposes above mentioned.
>
> Be it resolved, that a standing Committee of Correspondence and inquiry be appointed to consist of eleven Persons, to wit, the Honourable Peyton Randolph, Esquire, Robert Carter Nicholas, Richard Bland, Richard Henry Lee, Benjamin Harrison, Edmund Pendleton, Patrick Henry, Dudley Digges, Dabney Carr, Archibald Cary, and Thomas Jefferson, Esquires, any six of whom to be a Committee, whose business it shall be to obtain the most early and Authentic intelligence of all such Acts and Resolutions of the British Parliament, or proceedings of Administration, as may relate to or affect the British Colonies in America, and to keep up and maintain a Correspondence and Communication with our Sister Colonies, respecting these important Considerations; and the result of such their proceedings, from Time to Time, to lay before this House.
>
> Resolved, that it be an instruction to the said Committee, that they do, without delay, inform themselves particularly of the principles and Authority, on which was constituted a Court of inquiry, said to have been lately held in Rhode Island, with Powers to transmit Persons, accused of Offences committed in America, to places beyond the Seas, to be tried.[2]

After these resolutions had been favorably voted upon, it was resolved that the speaker should transmit copies to the speakers of the various houses of assembly in America, with the request that the resolutions be laid before their respective houses and that they appoint from their number similar committees to communicate, from time to time, with the Virginia committee.

[2] Journals of the House of Burgesses, 1773–1776, p. 28.

This is all that the Journal of the House of Burgesses shows us concerning the appointment of the new committee of correspondence; we must therefore turn elsewhere for information regarding the motives that lay behind its creation. Fortunately, Jefferson, who was one of the committee, has left us an account of the steps that led up to its formation.

> Not thinking our old & leading members up to the point of forwardness & zeal which the times required, Mr. Henry, R. H. Lee, Francis L. Lee, Mr. Carr & myself agreed to meet in the evening in a private room of the Raleigh to consult on the state of things. There may have been a member or two more whom I do not recollect. We were all sensible that the most urgent of all measures was that of coming to an understanding with all the other colonies to consider the British claims as a common cause to all, & to produce an unity of action: and for this purpose that a comm[itt]ee of correspond[en]ce in each colony would be the best instrument for intercommunication: and that their first measure would probably be to propose a meeting of deputies from every colony at some central place, who should be charged with the direction of the measures which should be taken by all. We therefore drew up the resolutions. . . . The consulting members proposed to me to move them, but I urged that it should be done by Mr. Carr, my friend & brother in law, then a new member to whom I wished an opportunity should be given of making known to the house his great worth & talents. It was so agreed; he moved them, they were agreed to nem. con. and a comm[itt]ee of correspondence appointed of whom Peyton Randolph, the Speaker, was chairman.[3]

The importance of this committee and the results that it might accomplish in welding the colonies together seem to have been clearly recognized by these representatives who made it possible. Indeed, the promptness with which the suggestion of the House of Burgesses was followed by the other colonial assemblies shows that they too were cognizant of the need of just such a means of intercolonial communication. Dunmore seems to have been about the only person who did not see the true meaning of this move. On March 31, just after he had prorogued the Assembly, he wrote a letter to Lord Dartmouth, in which he gave an account of the session just closed, and said of the resolutions appointing this committee of correspondence: "Your Lordp will observe, there are some resolves wch show a little ill

[3] P. L. Ford, The Writings of Thomas Jefferson, vol. i, pp. 7–8.

humour in the House of Burgesses, but I thought them so insignificant that I took no matter of notice of them."[4]

Only one meeting of the newly created committee was held in this short session; for the Assembly was prorogued on the twelfth day of its sitting, on account of an address[5] to the governor from the House of Burgesses protesting against the irregular procedure used by him in the trial of persons in Pittsylvania County suspected of forging the paper currency.[6] This meeting was held on March 13, the day after the creation of the committee, and the minutes show that nine of the eleven members were present, Henry and Pendleton being absent. John Tazewell was appointed clerk to the committee, and was ordered to keep "a fair Record of the Proceedings thereof from Time to Time." Peyton Randolph, Robert Carter Nicholas, and Dudley Digges, all three of whom had served on the committee of correspondence created in 1759, were appointed a select corresponding committee, and were directed to request the speakers of the assemblies of the colonies of Rhode Island, Massachusetts, Connecticut, and New York to furnish the committee of correspondence with a full account of the court of inquiry said to have been lately held in Rhode Island, together with an authentic copy of their commission and proceedings.[7]

The select committee was also instructed to procure copies of an act of Parliament, entitled "An Act for the better preserving his Majesty's Dock-Yards, Magazines, Ships, Ammunition and Stores,"[8] of all the other acts of Parliament which "now are or hereafter may be passed" relating to the affairs of the British colonies in America, and of the Journals of the House of Commons from the session of 1765–

[4] Letter from Dunmore to Lord Dartmouth, Bancroft Transcripts, 1752–1773, Library of Congress.

[5] Journals of the House of Burgesses, 1773–1776, pp. 22, 33.

[6] Ibid., pp. 22, 33, and Introduction, pp. viii–xi.

[7] This was the special court appointed to investigate the burning of the Gaspee. See letter from R. H. Lee to John Dickinson, April 4, 1773, in J. C. Ballagh, The Letters of Richard Henry Lee, vol. i, pp. 83–84.

[8] Statutes at Large of England and Great Britain, vol. vii, p. 156.

1766 to the last session held. It was ordered to transmit immediately to the speakers of the other assemblies copies of the "Act for making it Felony to forge the Paper Currency of the other Colonies,"[9] and to ask their cooperation in such legislation. The select corresponding committee was authorized and empowered to call meetings of the committee of correspondence "whenever any Emergency" might require immediate action.[10]

On April 6, 1773, there was a meeting in Williamsburg of the select committee of correspondence. A letter to Mr. John Norton, a merchant of London, was prepared asking him to become the confidential correspondent of the committee. Mr. Norton was requested to secure copies of the acts of Parliament and of the journals of the House of Commons. Letters were also written to the speakers of the assemblies of Massachusetts, Rhode Island, Connecticut, and New York requesting an account of the proceedings in the Gaspee affair. A copy of the new Virginia act of Assembly against counterfeiting the paper currency of other colonies was enclosed. Letters enclosing the above act were also sent to the speakers of the assemblies of South Carolina, Delaware, New Jersey, and New Hampshire, and these colonies were asked to cooperate with Virginia by the passage of reciprocal legislation in regard to the paper currency.[11]

In the appointment of John Norton as English correspondent there is to be noticed a striking similarity in the operations of this committee to the work of the older committee of correspondence. The older act had created both the agent and the committee, while the latter had been given the power to select its own agent. In the case of both committees the correspondence was conducted in the same manner; but the second committee of correspondence, although granted a wider discretionary power than its earlier proto-

[9] Hening, vol. viii, p. 651.

[10] Minutes of the Committee of Correspondence, in Journals of the House of Burgesses, 1773–1776, p. 41.

[11] Ibid., pp. 41–43.

type, was clearly under the control of the House of Burgesses, to which its correspondence had to be submitted.

The records of the Virginia committee are nearly complete, being preserved in the Committee of Correspondence Papers in the Virginia Archives; and although a few of the letters are missing, these have been supplied from the records of the other colonies which were parties to the correspondence. These letters and proceedings have been printed in the Journals of the House of Burgesses following the sessions of the year to which the correspondence belongs.

The letters received by the committee during the year 1773 show that nine other colonies adopted the suggestion of the Virginia House of Burgesses. The first colony to act on the Virginia resolutions was Rhode Island, whose House of Deputies, on May 7, appointed a standing committee of correspondence, consisting of Stephen Hopkins, Metcalf Bowler, Moses Brown, John Cole, William Bradford, Henry Ward, and Henry Merchant.[12] The Virginia Assembly was notified of their appointment in a letter from Metcalf Bowler, the speaker of the Rhode Island House of Deputies, written May 15, a little more than a week after the appointment of the committee.[13] The resolution appointing the committee closely follows in form that of the House of Burgesses. The House of Deputies, says the letter of the speaker, being thoroughly convinced that a firm union of the colonies was absolutely necessary for the preservation of their ancient, legal, and constitutional rights, and that the measures proposed by the House of Burgesses would greatly promote so desirable an end, had unanimously voted the appointment of a committee of correspondence. Information on the Gaspee affair was sent not only to Virginia but to the other colonies as well.

The Connecticut House of Representatives appointed their committee of correspondence on May 21, consisting of

[12] Minutes of the Committee of Correspondence, in Journals of the House of Burgesses, 1773–1776, pp. 48–49; Colonial Records of the Colony of Rhode Island, vol. vii, pp. 227–228.

[13] Letter from Metcalf Bowler to Peyton Randolph.

the following members: Ebenezer Silliman, William Williams, Benjamin Payne, Samuel Holden Parsons, Nathaniel Wayles, Silas Deane, Samuel Bishop, Joseph Trumbull, and Erastus Wolcott. Both the fact that the committee was appointed after a consideration of the letter and of the resolutions of the Virginia House of Burgesses and the language of the resolutions clearly indicate the origin of the idea. The letter from the Connecticut speaker to the speaker of the Virginia House states that the suggestion of Virginia was readily adopted by the Connecticut legislature.[14]

On May 27 the House of Representatives of New Hampshire, acting on the resolutions and the letter, which had been communicated to them by the Virginia speaker and committee, resolved to appoint a committee of correspondence, consisting of John Wentworth, John Sherburne, William Parker, John Giddings, Jacob Sheafe, Christopher Tappan, and John Pickering. Of this action Peyton Randolph was notified by a letter from John Wentworth, dated May 27.[15]

On May 28 the House of Representatives of Massachusetts, in a set of resolutions which closely follow those of Virginia in form and content, appointed the following committee of correspondence: Thomas Cushing, John Hancock, William Phillips, William Heath, Joseph Hawley, James Warren, Richard Derby, Jr., Elbridge Gerry, Jerethmeel Bowers, Jedediah Foster, Daniel Leonard, Thomas Gardner, Jonathan Greenleaf, and James Prescott. Both in the resolutions appointing this committee of correspondence and in Cushing's letter of June 3 to the Virginia speaker there is ample evidence that it was to the suggestion and example of Virginia, and not to the local Massachusetts committees of correspondence, that the appointment of the intercolonial committees was due.[16]

The action of South Carolina, however, shows that the striking similarity between the intercolonial committee of

[14] Journals of the House of Burgesses, 1773–1776, pp. 52, 53.
[15] Ibid., pp. 49, 50.
[16] Ibid., pp. 50, 51.

correspondence and the committee of communication with the agent was clearly recognized by the assembly of that colony. Instead of appointing a new committee, the resolutions provided "that Mr. Speaker and any eight of the other Members of the Standing Committee of Correspondence, be a Committee to enquire for and obtain Intelligence upon the several Matters mentioned in the said resolutions, and to correspond with the Committee, appointed by the said House of Burgesses, and Committees appointed or to be appointed in our Sister Colonies respecting the same." South Carolina, the first of the southern colonies to act on the Virginia resolutions, provided for the use of this committee for intercolonial correspondence on July 6, the second day of the first session after the receipt of the proposal.

On September 10 the Commons House of Assembly of Georgia appointed the speaker and any five of its committee of correspondence to be a committee for intercolonial communication. Except for the difference in the size of the committee appointed, the action taken in Georgia was identical with that in South Carolina.[17]

The committee of correspondence of Maryland was appointed on October 15. The resolutions and letter of the Virginia House of Burgesses had been considered by the Lower House of the Maryland Assembly in its June session; but before resolutions could be initiated, the Assembly was unexpectedly prorogued. There was no chance of appointing the committee until another meeting of the Assembly, which was not held until October. Soon after this session opened the following committee of correspondence was chosen: Matthew Tilghman, John Hall, Thomas Johnson, William Paca, Samuel Chase, Edward Boyd, Matthias Hammond, Josias Beale, James Boyd Chamberlaine, Brice Thomas, Beale Worthington, and Joseph Sim.[18]

Only one of the middle colonies appointed a committee of

[17] Journals of the House of Burgesses, 1773–1776, pp. 60, 61; Smith, pp. 402–404; Commons House of Assembly Journals, vol. xxxix, part ii, pp. 25–27.

[18] Journals of the House of Burgesses, 1773–1776, pp. 62–63.

correspondence in 1773. The House of Representatives of Delaware named on October 23 from its own members the following committee of correspondence: Caesar Rodney, George Read, Thomas McKean, John McKinley, and Thomas Robinson. In form and diction the Delaware resolutions follow closely those of Virginia.[19]

One other colonial legislature appointed a committee of correspondence in 1773. This was North Carolina, whose House of Assembly, after consideration of the letter of the Virginia House of Burgesses and also of several letters from the other colonies, "expressing their high approbation of and Concurrence with so salutary a measure," took action on December 8. The committee appointed by these resolutions consisted of Speaker John Harvey, and Messrs. Howe, Harnett, Hooper, Caswell, Vail, Ashe, Hewes, and Samuel Johnston of the Assembly.[20]

The Virginia committee received in 1773 two letters from John Cruger, speaker of the New York Assembly. One was in answer to Peyton Randolph's letter of March 19 enclosing the resolutions of the Virginia House of Burgesses of March 12, and stated that the matter would be laid before the New York Assembly when it convened. The letter of April 24, in answer to the letter of the Virginia select committee of April 6, said that the New York Assembly had "no Committee of Correspondence of the same Kind with yours appointed," but that as soon as there should be a meeting of the Assembly the subject would be called to the attention of its members.[21]

In the papers of the Virginia committee there is also a letter from John Norton, the London correspondent. This letter bears date of July 6, 1773, and was written in answer to the letter of the select committee of April 6. Mr. Norton accepted the trust reposed in him by the committee, and stated that he had sent under favor of his friend, Benjamin

[19] Journals of the House of Burgesses, 1773–1776, pp. 58, 59.
[20] Ibid., pp. 63, 64; The Colonial Records of North Carolina, vol. ix, pp. 740, 741.
[21] Journals of the House of Burgesses, 1773–1776, p. 47.

Harrison, the information requested in their letter. In regard to the duties on tea he wrote:

> Our Present Parliament who are just prorogued have made such Strides toward Despotism for sometime past, with respect to the East India Company as well as America, that we have too much Reason to dread bad Consequences from such Proceedings. Some of my Friends in the India Direction tell me that they have Thoughts of sending a Quantity of Tea to Boston, New York, Philadelphia, Virginia & South Carolina, which Government seems to approve, but they suspect their Motives are to make a Cat's Paw of the Company, and force them to establish the 3^{d}. p^{r}. C^{e}. American Duty. I advised the Gentlemen not to think of sending their Tea till Government took off the Duty, as they might be well assured it would not be received on any other Terms, what their Resolutions, will be, time only will discover.[22]

Of all the colonies, Pennsylvania and New Jersey were the most backward in appointing intercolonial committees. In Pennsylvania the Assembly was presided over by Joseph Galloway, a man of decided Tory sympathies. His tardy acknowledgment of the receipt of the Virginia letter and resolutions, which had been sent to him on the 19th of March, was not written until September 25. The letter and resolutions had been laid before the Assembly; but "as the present assembly must in a few Days be dissolved . . . and any Measures they might adopt at this Time rendered, by the Dissolution ineffectual, they have earnestly recommended the Subject Matter of the Letter and Resolves of the House of Burgesses of Virginia to the Consideration of the succeding Assembly."[23] No action was taken by New Jersey until the early part of 1774.

Two other letters were received by the committee of correspondence of Virginia during the year 1773. On August 10 the select committee of Connecticut wrote to find out what the procedure had been in Virginia in regard to writs of assistance. "That matter is now under the Consideration of the superior Court here, and as it is a matter of very great Importance to the Colonies in General, we wish your Answer, that the Proceedings that have been with you, and your candid and free Sentiments thereon, may be fully

[22] Journals of the House of Burgesses, 1773–1776, pp. 53, 54.
[23] Ibid., p. 56.

known here."[24] The other letter, from the committee of Massachusetts, is a plea for the necessity of colonial union against the encroachments of the British Parliament.[25]

By the end of the year 1773 nine of the American colonies had followed the suggestion of the Virginia House of Burgesses by appointing intercolonial committees of correspondence, leaving three of the middle colonies—Pennsylvania, New York, and New Jersey—yet to take action in the matter. In none of these nine colonies is there any allusion to the local committees of correspondence, while both in form of the committees appointed and in the language of the resolutions making the appointment it is evident that the committees were copied from that of Virginia.

On January 6, 1774, the select committee met at Williamsburg. The Connecticut letter of the preceding August was considered and an answer prepared, which went into an able argument against the validity of the writs of assistance. The Virginia select committee, two of whom were able attorneys, took issue with the opinion of William De Grey, the attorney-general of England.[26]

The committee held its next meeting on May 6, 1774, on the second day of the new session of the Assembly. The proceedings of the select committee were laid before the whole committee of correspondence, "together with the several Letters" which had been received from the different colonies, and it was ordered that the proceedings and letters should be laid before the House of Burgesses.[27] On May 25 the committee held another meeting, when a letter which had been received from the committee of New Jersey announcing its appointment was read and also ordered to be laid before the Lower House.[28]

According to order these matters were laid before the House on May 26, and consideration was fixed for the following Thursday. It was further ordered that the clerk of

[24] Journals of the House of Burgesses, 1773–1776, p. 55.
[25] Ibid., pp. 56, 57, 58.
[26] Ibid., pp. 135, 136, 137.
[27] Ibid., p. 137.
[28] Ibid., p. 138.

the committee should transcribe its minutes and letters into a book.[29] Before the day appointed, however, the Assembly was suddenly prorogued.

The House of Burgesses, fearing a dissolution if Dunmore did not like its proceedings, seems to have postponed the consideration of these papers purposely until the other business of the session could be concluded. On the receipt, however, of news of the Boston Port-Bill, the House of Burgesses, on May 24, passed resolutions appointing a day of fasting and prayer; and on May 26 Dunmore, hearing of the resolutions, dissolved the House, claiming that the language used in the order of that body was a reflection on the king.[30]

Jefferson gives in his memoir these facts concerning the action of the House of Burgesses:

> The lead in the House, on these subjects, being no longer left to the old members, Mr. Henry, R. H. Lee, Fr. L. Lee, three or four other members, whom I do not recollect, and myself, agreeing that we must boldly take an unequivocal stand in the line with Massachusetts, determined to meet and consult on the proper measures, in the council-chamber, for the benefit of the library in that room. We were under conviction of the necessity of arousing our people from the lethargy into which they had fallen, as to passing events; and thought that the appointment of a day of general fasting and prayer would be most likely to call up and alarm their attention. No example of such a solemnity had existed since the days of our distresses in the war of '55, since which a new generation had grown up. With the help, therefore of Rushworth,[31] whom we rummaged over for the revolutionary precedents and forms of the Puritans of that day, preserved by him, we cooked up a resolution somewhat modernizing their phrases, for appointing the 1st day of June, on which the port-bill was to commence, for a day of fasting, humiliation, and prayer, to implore Heaven to avert from us the evils of civil war, to inspire us with firmness in support of our rights, and to turn the hearts of the King and Parliament to moderation and justice. To give greater emphasis to our proposition, we agreed to wait the next morning on Mr. Nicholas, whose grave and religious character was more in unison with the tone of our resolution, and to solicit him to move it. We according went to him in the morning. He moved it the same day; the 1st of June was proposed; and it passed without opposition.[32]

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[29] Journals of the House of Burgesses, 1773–1776, pp. 130, 131.

[30] Ibid., pp. 124, 132; Virginia Gazette, May 26, 1774. The resolution appointing June 1 as a day of fasting, humiliation, and prayer was introduced by Robert Carter Nicholas, and was printed in the Virginia Gazette of May 26.

[31] J. Rushworth, Historical Collections, vol. iv, p. 494.

[32] Washington, Thomas Jefferson, vol. i, pp. 6–7; T. F. Gordon, History of Pennsylvania, p. 485.

On May 27, the day after the prorogation, eighty-nine members of the Assembly held a meeting in the Raleigh Tavern, and adopted an association which was signed by the members present, and afterwards by twenty-one citizens. Besides forming this non-intercourse association recommending the stopping of all trade relations with England until the repeal of the objectionable duties, the Burgesses instructed the committee of correspondence to communicate "with their several corresponding committees, on the expediency of appointing deputies from the several colonies of British America, to meet in general congress, at such place annually as shall be thought most convenient; there to deliberate on those general measures which the united interests of America may from time to time require."[33] These instructions were carried out by the committee of correspondence at the meeting of May 28, when a circular letter was written to the committees of Pennsylvania, New York, Maryland, New Jersey, Massachusetts, Rhode Island, Connecticut, New Hampshire, Delaware, North Carolina, South Carolina, and Georgia; and these letters were sent by the same day's post.[34]

The select committee met on May 31, when "several Letters from Maryland, Pennsylvania and Massachusetts Bay" were laid before the committee. It was resolved that a letter should be immediately prepared to the North Carolina committee, enclosing copies of these letters and papers, with the request that these be forwarded to the two more southern colonies, with report of their own action.

A letter[35] was also prepared and sent to the Maryland committee in reply to theirs of the 25th of May which had enclosed the letter and resolutions from Boston. It was stated that the moderator of the association, Peyton Randolph, had at once called a meeting of as many of the burgesses as could be reached. Although most of the representatives had returned to their respective counties, yet

[33] Journals of the House of Burgesses, 1773–1776, pp. xiii–xv.
[34] Ibid., p. 138.
[35] Ibid., pp. 138, 139, 140, 145, 146, 147, 148.

twenty-five of them had come together on May 30, when they had passed a resolution that there be held a convention of the representatives of the House of Burgesses in Williamsburg on August 1, 1774.[36]

On August 4, during the session of this Virginia convention, which was composed of the duly elected members of the House of Burgesses, the select committee of correspondence held a meeting and prepared letters to the committees of Maryland and Pennsylvania notifying them that Virginia had elected her delegates to a congress. As the convention was still in session and had not finished its deliberations, the whole proceedings could not, at that time, be transmitted.

This convention[37] was in session from August 1 to August 5, and the result of its deliberations was the adoption of an association containing provisions for a non-importation agreement to become effective after November 1, 1774, and a non-exportation agreement to go into effect on the 10th of August, 1775, if American grievances were not redressed by that time. To see that the provisions of these agreements should be complied with, committees of observation were to be appointed in each county, whose duty it should be to report violations of the association. I hope to treat the work of these local committees in another monograph.

The remaining correspondence of the Virginia committee, the letters received by it in 1774, can be treated briefly. On March 1 the speaker of the New York Assembly notified Peyton Randolph that on January 20, 1774, a committee of correspondence had been chosen by that body;[38] and on March 14 the committee of New Jersey notified Virginia of its appointment by a resolution of the New Jersey Assembly of February 8.[39] The province of Pennsylvania was

[36] Calendar of Virginia State Papers, vol. viii, pp. 52, 53.
[37] American Archives, 4th series, vol. i, pp. 686–688.
[38] Journals of the House of Burgesses, 1773–1776, p. 143.
[39] Journals of the House of Burgesses, 1773–1776, pp. 144, 145; Letter from Governor Franklin to the Earl of Dartmouth, in American Archives, 4th series, vol. i, p. 318.

so tardy in the appointment of its committee of correspondence that in a mass-meeting on May 20, 1774, the people of Philadelphia appointed a committee which carried on communication with the other colonies until the Assembly, at its next session, decided to utilize the standing committee of correspondence, to which was added the speaker, Joseph Galloway.[40]

The other letters deal chiefly with the subject of a general congress and show the leading part played by the intercolonial committees of correspondence in the creation of that body. As has been already shown, the Virginia committee had made the suggestion in the circular letter of May 28. On the second Monday in June, 1774, the General Assembly of Rhode Island appointed delegates to meet the representatives of the other colonies in a general congress, "at such Time and place as shall be agreed upon by the major part of the Committee appointed or to be appointed by the Colonies in general."[41] Massachusetts took more definite action, however, for on June 17 the House of Representatives appointed a "Committee on the part of this Province . . . to meet such Committees or Delegates from the other Colonies, as have been or may be appointed, either by their respective Houses of Burgesses, or Representatives, or by Convention or by the Committees of Correspondence, appointed by the respective Houses of Assembly," and suggested Philadelphia and September 1, 1774, as the place and time for holding the congress.[42]

The first Continental Congress was the creation of the intercolonial committees of correspondence, their efforts having made its calling possible. In all of their proceedings they had acted as the representatives of the popular bodies by which they had been appointed, and in the recess between the sessions of the assemblies they had acted for these bodies. It was through their work that the prorога-

[40] T. F. Gordon, History of Pennsylvania, p. 483.
[41] Journals of the House of Burgesses, 1773–1776, p. 153.
[42] Ibid., pp. 156, 157; American Archives, 4th series, vol. i, pp. 421–423.

tions and dissolutions of the royal governors were nullified and the representatives of the people were allowed to voice the wishes of their constituencies.

In the resolutions appointing the delegates to the first Continental Congress the very language, in several cases, shows that the Congress was looked upon as a meeting of the committees of correspondence.[43] An examination of the personnel of the Congress of 1774 shows that a majority of its members were members of the committees of correspondence.[44] As these committees, which had created the Congress, had acted for the various legislatures, they conferred a representative character on that body. This representative character was made more and more prominent as the respective colonial legislatures ratified the action of the Congress and the part taken by the committees of correspondence in its creation.

With the convening of the Continental Congress the great work of the intercolonial committees had been accomplished, and most of their activities were soon lost in the central body which they had created. By 1775 another committee, the committee or council of safety, began to appear as the executive power in the colonies during the interregnum between the breakdown of the royal government and the rise of the state government. This committee of safety replaced the committee of correspondence almost completely, absorbing its remaining functions and in many cases its membership. The transition from the Virginia committee of correspondence to the Virginia committee of safety I shall treat in another monograph.

[43] Journals of the House of Burgesses, 1773–1776, pp. 153, 156, 159.
[44] See credentials of the delegates to the Congress of 1774, in W. C. Ford, Journals of the Continental Congress, vol. i, pp. 15–30.

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